

103

THE IMPACT OF FEDERAL MANDATES ON STATE AND LOCAL GOVERNMENTS

Y 4. G 74/7: M 31/18

The Impact of Federal Mandates on S...

HEARING

BEFORE THE

HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE

OF THE

COMMITTEE ON

GOVERNMENT OPERATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

OCTOBER 25, 1993

Printed for the use of the Committee on Government Operations



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THE IMPACT OF FEDERAL MANDATES ON STATE AND LOCAL GOVERNMENTS

MONDAY, OCTOBER 25, 1993

HOUSE OF REPRESENTATIVES,
HUMAN RESOURCES AND
INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Harrisburg, PA.

The subcommittee met, pursuant to notice, at 10:50 a.m., in room 8E A&B, Main Capitol Building, Harrisburg, PA, Hon. Edolphus Towns (chairman of the subcommittee) presiding.

Present: Representatives Edolphus Towns, William F. Clinger, Jr., and John L. Mica.

Also present: Representatives William F. Goodling and George W. Gekas.

Staff present: Ronald A. Stroman, staff director; Martine M. DiCroce, clerk; and Martha B. Morgan, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN TOWNS

Mr. GEKAS. It is a privilege to be here in the State capital of Pennsylvania anytime when a group of the Members of Congress appear in our midst and perform their duties with respect to the issue of the day within the shadow of the capitol building and within the capitol itself. We in Pennsylvania are very proud of the tradition of hospitality that we have shown over the years to visiting Members of Congress, and with the stately State capital as the center of today's activities, we have a sense of pride in showing it off to the visiting Members.

The important issue of the day, of course, is unfunded mandates. To head the hearing process is the chairman of the relevant subcommittee, Congressman Towns of New York. We will allow him, of course, full courtesies of the gavel today and hope that he and his committee will return to Washington with an extra set of facts that will help them in their deliberations. I present to you Chairman Towns of New York.

Mr. TOWNS. Thank you very much. Let me begin by saying that I am delighted to be in your great State and to also thank you for the leadership that you are providing in this area as well. I think that this is a good place to have it, Pennsylvania, where we have the ranking member of the subcommittee who has been very active in terms of supporting legislation that we feel that could make a difference, and of course we also are very delighted to have substituting for the ranking member on the subcommittee, Mr. Mica,

who is also here, and of course the gentleman from Pennsylvania, Mr. Goodling, who has been very active in terms of supporting legislation. He has testified before our committee in Washington, DC, and has said in a very loud and clear voice that if we are going to mandate, this has to be examined because we just can't keep saying this is what you do without seeing in terms of what it does to the local levels.

So I am delighted to be joined with all of them this morning and to recognize that this is something that we should examine because in the past few years we have enacted 172 laws imposing requirements of mandates on States and local governments but cut funding to local government by 75 percent during the same period of time which means that municipal authorities had problems in terms of borrowing and in terms of also financing and also trying to comply with the mandates. We also saw fiscal disparities between central cities and suburbs grow to the highest level ever recorded.

So people are now beginning to ask the question, and rightfully so, that if you are going to say that we must do this, then you must help us to find the resources to be able to do it. It is good to be big daddy or big mama to just sort of say this is what must happen and then just go away while people begin to scuffle and to shuffle to try and comply with what Federal Government is saying in terms of this instance—big daddy, of course, and big mama.

This has created an awful situation in many areas of this country wherein that we have had problems in terms of trying to find the resources to be able to comply. There are some hopeful signs regarding Federal mandates. Last week, the subcommittee held hearings on H.R. 2856, the Local Flexibility Act, sponsored by Government Operations Committee Chairman John Conyers and Ranking Minority Member Bill Clinger, which would give local governments and private, not-for-profit organizations the flexibility to propose integrated plans for more efficient and effective use of Federal assistance.

We need a new partnership between Federal, State, and local governments to deliver our services. We must begin the process of honestly determining whether Federal funds are available before we place costly mandates on the backs of local government.

At this time, I would like to yield to Mr. Clinger, who is the ranking member of the full Committee on Government Operations, for any remarks that he might have or comments at this particular time. It is a pleasure. He is really responsible along with the other members of the delegation from Pennsylvania for the subcommittee to come to Harrisburg today. Mr. Clinger.

[The opening statement of Mr. Towns follows:]

**OPENING STATEMENT CHAIRMAN EDOLPHUS TOWNS
"FEDERAL MANDATES ON STATE AND LOCAL GOVERNMENTS"**

HARRISBURG, PENNSYLVANIA

OCTOBER 25, 1993

This is the second in a series of hearings on Federal mandates. At our first hearing, we examined the potential impact of health and welfare reform on state and local governments.

Over the last ten years, many state and local governments have experienced an unprecedented loss of revenue, particularly in major urban areas. Several recessions, and the exodus of businesses and middle class taxpayers, have further reduced revenue growth. Simultaneously, there has been an increasing demand for social programs, during a time when the Federal government dramatically reduced its funding for those programs.

The result was described by Senator Christopher Dodd (D-Conn) at a 1991 hearing as "a dramatic Federal march away from our nation's cities." Figures indicate that direct Federal aid to local governments dropped to \$19.8 billion in 1990 from \$47 billion in 1980.

During that same time, Congress enacted 172 laws, imposing requirements or mandates on States and local governments, but cut funding to local governments by 75 percent and cut back on municipal authority to borrow or finance compliance with those new mandates. We also saw fiscal disparities between central cities and suburbs grow to the highest levels ever recorded.

This has created an untenable situation for state and local governments. Most jurisdictions have had to reduce their work force, social service and infrastructure programs. This has created overcrowded conditions in our prisons, and decreased capital expenditures for items such as road repair or the repair of school buildings. These cuts have helped to erode the social fabric of our country, deepening poverty and unemployment.

There are some hopeful signs regarding Federal Mandates. Last week this Subcommittee held a hearing on H.R. 2856, the Local Flexibility Act, sponsored by Government Operations Committee Chairman John Conyers, and Ranking Minority Member Bill Clinger, which would give local governments and private, not-for-profit organizations the flexibility to propose integrated plans for more efficient and effective use of Federal assistance.

Yesterday, OMB Director Leon Panetta testified that the Administration has created a mandates task force, consisting of OMB, the National Economic Council and the President's Coordinator for State and Local Affairs. I look forward to working closely with that task force.

We need a new partnership between Federal, state and local governments to deliver our services. We must begin the process of honestly determining whether Federal funds are available before we place costly mandates on the backs of local government.

Mr. CLINGER. Thank you, Mr. Chairman, and let me just begin by again thanking you for your willingness to hold this field hearing and to come to Harrisburg to carry it out, and I can't tell you how much we appreciate your interest and your concern in this area in holding this hearing today, which I think is going to be a very enlightening one for a lot of us who have been concerned about this issue but really have only had sort of anecdotal evidence of what the problem really involved.

We are going to be observing in 2 days' time around the Nation something entitled, "National Unfunded Mandates Day," and the purpose of that is to foster and hopefully promote public awareness of the intolerable burden which mandates have imposed upon State and local government so this is a very appropriate kickoff for recognition of National Unfunded Mandates Day which hopefully will escalate the issue to an even higher degree of awareness.

We have a lot of witnesses today, and I think the stories are going to share a common thread, that unfunded mandates from Washington consume too much money, too much time, too many State and municipal resources. And our witnesses are going to paint for the subcommittee, I think, a striking picture of how mandates have affected Pennsylvania and the steps State and local elected officials have taken to cope. And I certainly want to thank all of them for participating today, and I also want to express the committee's appreciation to Senator Bill Corman and his staff for their hospitality and assistance in organizing this hearing today.

I also want to join you, Mr. Chairman, in welcoming two guests to the subcommittee, Representative Goodling, who has been a very strong leader in this effort to address the problem of unfunded mandates and has legislation that is sort of a centerpiece of what we are looking at in terms of addressing the problem, and also we want to thank Congressman Gekas in whose district this meeting is being held for his hospitality and interest in the issue as well.

I am going to ask that my statement be entered in full in the record—just put in a plug which I will allude to later on my own bill which would be an effort to look at the unfunded mandates that presently exist—the ones that are out there now and that local and State officials are having to deal with.

And this would be a bill that would say, OK, we have got to look back, consider all of these, have a commission appointed to do that, and the commission would make recommendations as to mandates that could be eliminated, ones that have outlived their usefulness or were redundant or contradictory and send to the Congress a recommended list to eliminate. Now, the commission's work would not sit on a shelf because it would also require the Congress to act on those recommendations up or down, somewhat the way we have done on the base closing.

So, Mr. Chairman, this is of vital importance to a lot of the people gathered in this room today, the State and local officials represented here, and I know they join with me in appreciating your willingness to come here and to hear their story.

Mr. TOWNS. At this time, I would like to yield to Mr. Mica from Florida.

Mr. MICA. Mr. Chairman, as acting ranking member of the subcommittee this morning, I want to again compliment you for bring-

ing this hearing to the State capital. As someone who has come from business and spent some time working in local and State government, this is an extremely critical hearing, and I too want to salute the leadership of the Pennsylvania members that are here, both Bill Clinger, who is ranking on the full committee, and George and also Bill who have shown leadership in the Congress on this issue. It is one of the most critical issues before the Congress, and it certainly is to State and local governments who we will hear from today and how they are impacted. So, again, I thank you and am pleased to be a part of the hearing today.

Mr. TOWNS. Thank you very much. And now I yield to Mr. Goodling who has really been very involved in this issue, has testified before our committee in Washington and has been in the forefront. Representative Goodling.

Mr. GOODLING. Thank you, Mr. Chairman. I just want to thank the chairman and the ranking member of the full committee and the acting ranking member of the subcommittee for coming. You are in George's district, but just across the river is the beautiful 19th district which includes Carlisle, and then you think of Jim Thorpe; Gettysburg, and if none of you have seen the Gettysburg movie, 4 hours and 8 minutes, it is worth every minute, York, which we claim is the first capital of the United States because the Articles of Confederation were signed there. And I thank you for coming.

Mr. Moran and I, of course, are talking about any future unfunded mandates, and Mr. Clinger is talking about those that you have already been stuck with, the State and local government and the private sector, so we look forward to the testimony today.

Mr. TOWNS. Thank you very much for your work in terms of this particular issue, but I also thank you for that short, brief course in history.

Let me begin by calling the witnesses. First, Mr. Douglas Hill, executive director of the Pennsylvania Association of County Commissioners, and Kenneth Greider, executive director of the Pennsylvania Association of Township Supervisors. Then why don't you begin then, Mr. Hill.

STATEMENT OF DOUGLAS HILL, EXECUTIVE DIRECTOR, PENNSYLVANIA ASSOCIATION OF COUNTY COMMISSIONERS

Mr. HILL. Thank you. I am Doug Hill, executive director of the Pennsylvania State Association of County Commissioners. Our association is a nonprofit, nonpartisan association which represents all of the Commonwealth's 67 counties, and it is a genuine pleasure to be here with you today to discuss an issue which is really at the head of the agenda for all our membership, and that being State and Federal mandates.

The statement that I passed out to you is, in fact, a statement by our president, Donna Garity, from Blair County which she will be presenting this coming Wednesday which Congressman Clinger noted is National Unfunded Mandates Day.

Mr. TOWNS. Let me just indicate—

Mr. HILL. Yes.

Mr. TOWNS [continuing]. At this point and interrupt you by saying the entire statement will be included in the record.

Mr. HILL. That is right.

Mr. TOWNS. All you have to do is just sum up in 5 minutes and allow us to ask questions.

Mr. HILL. And that is my intent. Thank you.

Mr. TOWNS. Thank you.

Mr. HILL. That is a joint effort of the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and others. And the intent is to bring greater public awareness of the effect that mandates have on State and local government.

I want to give you a few examples of mandates and their effects here in Pennsylvania particularly as they affect Pennsylvania counties. Some of the more recent ones include the Americans with Disabilities Act, which requires us to have full accessibility to all of our facilities and programs for those who have disabilities or other impairments. Domestic relations are carried out at the county level here in Pennsylvania, and at the Federal level we have recent requirements relating to staffing and some additional new program elements all of which came without any Federal funding.

Child welfare is a great example. In Pennsylvania, counties do all of the child abuse, foster placement, and related services. And most of it is not qualified under the Federal programming and for a very simple reason. If we were to qualify under the Federal law, it would cost us about an additional \$25 million to meet all the Federal programming requirements. And in return from the Federal Government, we would get about \$600,000. So to us, the cost benefit isn't there, and we think the kids are being served anyhow.

Counties in Pennsylvania do nursing homes in addition to the private sector. In the nursing homes, we have fallen under new requirements under OBRA, both for staffing levels and for doing surveys for client satisfaction, and a number of other requirements. None of that had any Federal funding.

And then also recently—in fact, just this year, the passage of the Federal motor voter legislation means, in effect, that we are in a position of rewriting most of our voter registration law here in this State simply because voter registration right now is exclusively a county function, but by tying in the all State agencies, particularly the Department of Transportation, we need to develop a whole new system for registration so that we can cross-check the names and meet all the requirements of that act. So there is a significant cost there.

The initial estimate at the county level is about \$5 to \$7 million. The Department of Transportation estimates about \$5 million for them, and the Department of State, Bureau of Elections, estimates \$2 to \$3 million the last time they gave us any estimate. So these are just some examples of Federal programming that has an effect on county government.

It is a little bit difficult for us to quantify the full effect though because quite often the Federal programs are filtered through the State. For example, in the nursing homes under Medicaid, the money comes to the State. It has Federal program requirements attached, and then the State, in turn, is responsible for developing a Medicaid plan on how that money is to be spent, and that includes additional program requirements for us. And so it is some-

times hard to separate the State mandate from the Federal mandate.

Let me sum up though by saying that while we say that ADA, for example, gives us additional requirements and costs, I am not criticizing any of the programs necessarily. Most of these are good programs. They are objectives that I think we can all agree with. The question is at whose behest. The question is who ultimately pays for it.

With the system that we have in place now, we are seeing a massive shift of taxation from the Federal Government to State and local government. Congress gets to put in place many of its objectives. The State legislature gets to put in place many of its objectives, but then they fall to us to administer and, in many cases, to fund. And the net result of that is to the local taxpayer that those services are being paid out of the local property tax dollar rather than a more progressive State or Federal income tax, and that is a significant problem.

If we could make some suggestions for resolving the issue, I think, first, we would like some flexibility. We have seen an increasing tendency for micromanagement, not so much from the Federal level as from the State—I will be candid about that—but that has caused us less discretion at the local level, given us less opportunity to achieve cost savings while we are spending, in some cases, 50 percent of our time just completing the paperwork. We would like to see some means that we could work out different systems at the local level that meet the same program objectives but do it in a way that fits our systems and our staffing capability and fiscal capability.

Second, we would like to see some stronger requirements for fiscal notes so that there is a very clear indication to Members of Congress and here in Pennsylvania to the members of our legislature what these programs or new mandates, proposed mandates are going to cost and how they will ultimately be funded.

And, finally, we would like to ultimately see legislation which would discharge us from the duty to fulfill any mandate that is not fully or adequately funded at either the State or Federal level.

That concludes my remarks. I presume you would like Mr. Greider to speak next, and at the appropriate time, I will be happy to answer any of your questions.

Mr. TOWNS. Thank you very much, Mr. Hill. Mr. Greider.

STATEMENT OF B. KENNETH GREIDER, EXECUTIVE DIRECTOR, PENNSYLVANIA ASSOCIATION OF TOWNSHIP SUPERVISORS

Mr. GREIDER. Good morning. My name is Ken Greider, and I appear today on behalf of the Commonwealth's 1,458 townships of the second class and the more than 10,000 public officials who serve 4.6 million Pennsylvanians who live in townships throughout the Commonwealth.

At issue today are many Federal and State mandates passed on to township government without any regard for the fiscal and administrative capabilities to carry out the conditions of the mandate. For example, when the Federal Government decided several years ago to regulate underground gasoline tanks and require all owners

of these tanks, including townships, to carry \$1 million in insurance coverage, it appears that little regard was given to what it would cost local government or to the fact that such insurance coverage was not even available.

At that time, we had heard a number of stories that it would be available, different types of things, but insurance in that area and in the whole environmental area is really almost nonexistent. Finally the State, through the Department of Environmental Resources, set up an advisory committee and went through that route, and there is some type of insurance available now, and there is a deductible down to like \$10,000. But that was something that had to be found out locally or Statewide.

Mandates can appear in many forms. They can require local governments to undertake and oftentimes finance new responsibilities or assume funding for existing Federal programs. They may set minimum standards that are higher than what the local government would have set for itself. It could require local governments to take over enforcement of Federal regulations, or they might provide an unnecessary expense or unsuitable means for a local government to comply with the Federal law or regulation.

And I think one of the things, gentlemen, that we see a lot is we don't know what regulations, what mandates are out there a lot of times. There are so many that noncompliance is probably more than what compliance is.

Mandates are usually created to address or achieve general goals such as eliminating ground water contamination, providing public access for persons with disabilities, or increasing worker safety, and are usually enacted in response to constituent or specific interest demands.

Federal environmental policies are among the most visible examples of the impact of mandates on local government. Public opinion has consistently favored Federal protection of the environment. Congress and the administrations have acted accordingly by enacting a myriad of laws and regulations to protect the environment, but they have not always funded all of the resulting responsibilities, delegating it to local governments.

In fact, the Federal Environmental Protection Agency recently estimated by the year 2000 the annual cost for local government to meet Federal environmental standards will increase from \$19 billion now to more than \$32 billion, and we only have about 6 years to go on that. EPA notes that the driving force behind higher environmental expenditures is the legislation regulating drinking water, sewage sludge, and solid waste disposal.

Local officials recognize the need for the policies that serve to protect our citizenry and are willing to help implement these policies, provided, however, that they are extended the discretion to implement the policies compatible with local needs and conditions; equally important, the financial assistance necessary to fund the mandates. Philadelphia is certainly different than Upper Turkeyfoot Township in Somerset County.

In 1980, Congress enacted the Regulatory Flexibility Act requiring Federal agencies to determine the impact of their regulations on local government and develop an alternative means of compliance. Adherence to the act by the Federal agencies would certainly

afford local governments and townships greater flexibility in implementing the mandates. Unfortunately, the response by the Federal bureaucracy to the Regulatory Flexibility Act has been very discouraging, if not nonexistent, and we realize that given budget restraints, unfunded Federal mandates will not disappear. However, there are certain actions Congress can and should lessen the impact of unfunded mandates on local government.

We believe that Congress should get a sense of how much it is asking of government to spend on mandates, not only per mandate but also the combination of the burden that is put on them. Hopefully, enacting legislation will require that anytime an unfunded mandate is passed on local government, adequate funds will have to be provided. We believe that Congress should prioritize mandates, especially environmental mandates, so that the cost or burden of mandates will not fall on communities all at one time. Finally, we believe that Congress should minimize the cost of mandates on local government by promoting greater flexibility in how they are implemented. One of the best ways to achieve this is through a strict enforcement of the Regulatory Flexibility Act.

That is my statement. You have the full statement for the record. And I think the insensitivity or hopefully more sensitivity to what local government has to do and the differences between local government is very, very important. Thank you.

[The prepared statement of Mr. Greider follows:]

Remarks of

B. KENNETH GREIDER

Executive Director

Pennsylvania State Association of Township Supervisors

**before the
Subcommittee on Human Resources and Intergovernmental
Relations**

**of the
House Committee on Government Operations**

on the issue of

The Impact of Federal Mandates on State and Local Government

October 25, 1993

Harrisburg, Pennsylvania

B. KENNETH GREIDER***BIOGRAPHY***

B. Kenneth Greider is executive director of the Pennsylvania State Association of Township Supervisors, a statewide organization created in 1921 by an act of the state legislature to further the interests of Pennsylvania's 1457 townships of the second class. His tenure with the State Association began in 1964, and he was appointed executive director in 1976. As executive director he is responsible for the day-to-day operations of the association headquarters and its 25-member staff.

He is also actively involved in numerous state and national organizations including the National Association of Towns and Townships, located in Washington, D.C., of which he is a past president.

Mr. Greider is a graduate of the University of Denver in Denver, Colorado, and was a recipient of a public affairs leadership fellowship from the Kellogg Foundation at the Pennsylvania State University.

REMARKS

Thank you, Mr. Chairman.

Good morning, everyone. My name is Ken Greider and I appear before you today on behalf of the commonwealth's 1,457 townships of the second class and the more than 10,000 public officials who serve the 4.6 million Pennsylvanians who live in these townships.

At issue today are the countless mandates passed on to township governments without any regard for the fiscal and administrative capacities to carry out the conditions of the mandate. For example, when the federal government decided several years ago to regulate underground gasoline tanks and require all owners of these tanks -- including most townships -- to carry \$1 million in insurance coverage, it appears as though little regard was given to what it would cost local governments or to the fact that such insurance coverage was not even available!

Mandates can appear in many forms. They can require local government to undertake and oftentimes finance new responsibilities or assume funding for existing federal programs; set minimum standards which are higher than the local government would have set for itself, or, require very rigorous, with the mandate unnecessarily expensive or unsuitable means of complying with the mandate.

Mandates are typically created to address or achieve generally laudable goals -- eliminating groundwater contamination, providing public access for persons with disabilities, or increasing worker safety -- and are usually enacted in response to constituent or special interest demands.

Federal environmental policies are among the most visible examples of the impact of mandates on local governments. Public opinion has consistently favored federal protection of the environment. Congress and the administrations have acted accordingly by enacting a myriad of laws and regulations to protect the environment. But they have not always funded all of the resulting responsibilities delegated to local government.

In fact, the federal environmental protection agency recently estimated that by the year 2000, the annual cost for local government to meet federal environmental standards will increase from \$19 billion now to more than \$32 billion!! EPA notes that the driving force behind higher environmental expenditures is legislation regulating drinking water treatment, sewage sludge disposal and solid waste disposal.

Local officials recognize the need for policies that serve to protect our citizenry and are willing to help implement these policies. Provided, however, that they are extended the discretion to implement the policy compatible with local needs and conditions and, equally important, the financial assistance necessary to fund the mandate.

In 1980, Congress enacted the Regulatory Flexibility Act requiring federal agencies to determine the impact of their regulations on local government and develop alternative means of compliance. Adherence to this act by the federal agencies would certainly afford townships greater flexibility in implementing mandates. Unfortunately, the response by the federal bureaucracy to the Regulatory Flexibility Act has been very discouraging, if not nonexistent.

In support of our national association, we realize that, given budget realities, unfunded federal mandates will not disappear. However, there are certain actions Congress can and should take to lessen the impact of unfunded mandates on local government.

- Congress should get a sense of how much it is asking local governments to spend on mandates, not only per mandate but also the cumulative burden and, hopefully, enact legislation which will require that anytime an unfunded mandate is passed on to local government, adequate funding will also be provided.

- Congress should prioritize mandates, especially environmental mandates, so that the cost or burden of the mandate will not fall on communities all at once.

· Finally, Congress should minimize the cost of mandates on local governments by promoting greater flexibility in how they are implemented. One of the best ways to achieve this is through a strict enforcement of the Regulatory Flexibility Act.

Mr. Chairman, that concludes my prepared remarks. I thank the committee for allowing us the opportunity to share our views on the impact of federal mandates on townships.

I would be pleased to answer any questions you may have at this time.

FULL TEXT

Thank you, Mr. Chairman.

Good morning, everyone. My name is Ken Greider and I appear before you today on behalf of the commonwealth's 1,457 townships of the second class and the more than 10,000 public officials who serve the 4.6 million Pennsylvanians who live in these townships.

At issue today are the countless mandates passed on to township governments without any regard for the fiscal and administrative capacities to carry out the conditions of the mandate. For example, when the federal government decided several years ago to regulate underground gasoline tanks and require all owners of these tanks -- including most townships -- to carry \$1 million in insurance coverage, it appears as though little regard was given to what it would cost local governments or to the fact that such insurance coverage was not even available!

In its 1993-94 Policy Statement, the Association declared that "The state and federal governments have freely transferred to local governments the responsibility for delivering numerous goods and services to the public without the benefit of state or federal dollars for implementation. Local governments are experiencing great difficulties in adequately funding basic public services because they have been forced to shift money from already strained budgets to carry out these new mandates. Faced with this situation, local governments often have no other alternative but to reduce their services and, at the same time, increase taxes, usually the very unpopular property taxes.

"The Association strongly supports legislation that would require the state and federal governments to provide adequate funding for any mandates imposed on local governments."

The Association also believes that "the state and federal governments must be more sensitive to the limited fiscal and administrative capacities of local governments to carry out costly mandates. Relief should be provided to local governments, whose taxing capacity is greatly limited by the state and federal governments, in the form of flexible compliance schemes that do not impose undue hardship."

President Reagan revised fiscal federalism and, in the process, took away General Revenue Sharing -- the one program that stood alone in balancing the cost of enforcing and administering federal mandates. President Bush became known for his promise of "No new taxes."

Unfortunately, there's no magic in what the federal government does under the guise of federalism. Nor has the cost of government been reduced. The costs have simply been passed on to local government.

When a new program or higher standard is enacted at the federal level, Congress has three choices --

- * take the heat and raise taxes to fund the cost of the mandate;
- * pass funding responsibilities on to state and/or local governments; or,
- * in an opinion which is often questioned, print more money.

The state legislatures, on the other hand, have two choices available to them --

- * take the heat and raise taxes to fund the cost of the mandate;
or,
- * pass funding responsibilities on to local government.

Local government has but one alternative available to it. And since it has neither a subordinate level of government or the authority to print money, local government is left to take the heat and raise taxes to fund the cost of the mandate which it didn't ask for in the first place!

Fiscal accountability, balanced budgets and doing more with less have been the trademark of local governments long before increased awareness of taxpayers' frustrations made them become fashionable slogans in the halls of Washington and Harrisburg.

Instead of passing costly and burdensome mandates on to local government, we believe all Pennsylvanians, if not Americans, would be better served if Congress and the state legislatures were to restore fiscal accountability and responsibility anytime they consider legislation to require new and expanded public services and programs of local governments.

To most township officials, the term "mandate" usually means an increase in local taxes or a reduction in services to carry forward the policies of the federal government.

Anytime a special interest feels that it has been aggrieved, it turns to government for a solution. Unfortunately, the solution is too often carved from political pressures at the state level and sent to local governments for implementation -- without any regard for the public good or local cost.

Mandates can appear in many forms. They can require local government to undertake and oftentimes finance new responsibilities or assume funding for existing federal programs; set minimum

standards which are higher than the local government would have set for itself; or, require very rigorous and unnecessarily expensive or unsuitable means of complying with the mandate.

Mandates are typically created to address or achieve generally laudable goals -- eliminating groundwater contamination, providing public access for persons with disabilities, or increasing worker safety -- and are usually enacted in response to constituent or special interest demands.

Federal environmental policies are among the most visible examples of the impact of mandates on local governments. Public opinion has consistently favored federal protection of the environment. Congress and the Administrations have acted accordingly by enacting a myriad of laws and regulations to protect the environment. But they have not always funded all of the resulting responsibilities delegated to local government.

In fact, the federal Environmental Protection Agency (EPA) estimates that by the year 2000, the annual cost for local government to meet federal environmental standards will increase from \$19 billion now to more than \$32 billion!! EPA notes that the driving force behind higher environmental expenditures is legislation regulating drinking water treatment, sewage sludge disposal and solid waste disposal.

Local officials recognize the need for policies that serve to protect our citizenry and are willing to help implement those policies. Provided, however, that they are extended the discretion to implement the policy compatible with local needs and conditions and, equally important, the financial assistance necessary to fund the mandate.

In 1980, Congress enacted the Regulatory Flexibility Act requiring federal agencies to determine the impact of their regulations on local government and develop alternative means of compliance. Adherence to this act by the federal agencies would certainly afford townships greater flexibility in implementing mandates. Unfortunately,

the response by the federal bureaucracy to the Regulatory Flexibility Act has been very discouraging, if not non-existent.

In concert with the National Association of Towns and Townships, we realize that, given budget realities, unfunded federal mandates will not disappear. However, there are certain actions Congress can and should take to lessen the impact of unfunded mandates on local government.

- * Congress should get a sense of how much it is asking local governments to spend on mandates, not only per mandate but also the cumulative burden and, hopefully, enact legislation which will require that anytime an unfunded mandate is passed on to local government, adequate funding will also be provided.

- * Congress should prioritize mandates, especially environmental mandates, so that the cost or burden of the mandate will not fall on communities all at once.

- * Finally, Congress should minimize the cost of mandates on local governments by promoting greater flexibility in how they are implemented. One of the best ways to achieve this is through a strict enforcement of the Regulatory Flexibility Act.

Mr. Chairman, that concludes my prepared remarks. I thank the committee for allowing us the opportunity to share our views on the impact of federal mandates on townships.

I would be pleased to answer any questions you may have at this time.

Mr. TOWNS. Thank you. Let me thank both of you for your testimony. At this time, I would like to yield to Congressman Clinger.

Mr. CLINGER. Thank you very much, and, gentlemen, I want to thank you both for coming here this morning and kicking off this hearing. I just have one question. The chairman of the full committee, Mr. Conyers, and I have introduced a bill which incorporates a portion of my unfunded mandates bill which says where we have specific grants of funds to local governments for various purposes, this would provide the kind of flexibility I think you are talking about by enabling a community, a recipient of grant funds to fashion a plan to address their needs on a very, very specific—you know, site-specific kind of an operation.

In other words, you would not be limited in the use of those funds if you came up with a plan that said, "We want to address this problem, and we are going to use funds to do that in this way." It doesn't address the question of the unfunded mandates. It seems to me it does address the question of providing the kind of flexibility that has hampered your ability to use these funds in the most effective way for your particular problems in your areas. Any response?

Mr. HILL. I think that is certainly a step in the right direction. Micromanagement from the bureaucratic level is one of the greatest problems we had. I made an allusion to it earlier, but, for example, in our child welfare programs, the level of regulatory overhead is such that the typical caseworker spends half of their time—literally half of their time in the office completing the forms and the reports and so on. And if we had something as you are proposing, we think that person could be out meeting with the families, helping the kids, and doing the things that really yield some positive result rather than keeping the paper trail.

Mr. CLINGER. All right. Ken, would that be helpful?

Mr. GREIDER. Well, another example, ADA is—a lot of townships and boroughs and cities have roads and have to make curb cuts to comply with ADA. Federal legislation was passed, and we do have State funds through our liquid fuel taxes and so forth coming into local governments, but the State law and the State regulation didn't permit at the time it was implemented, until we found out, the use of State funds for curb cuts were not allowed under previous legislation. But that has been corrected by the general assembly here in Pennsylvania.

Those type of things—you know, it takes a while to understand those, but that is an example where the State didn't know until the final regulations came down, and then the local governments couldn't implement it immediately, and we had a lag time. There are a number of examples I believe that are out there. You will hear more specific today I think from the individuals rather than from us as on a Statewide association.

Mr. CLINGER. Thank you very much.

Mr. TOWNS. At this time, I yield to Congressman Mica.

Mr. MICA. Mr. Hill, did your association have any specific cost or do any type of a cost study on the ADA implementation?

Mr. HILL. We do not have a specific cost, no, in large part because it has been difficult to quantify. The retrofits are coming about over time, but a lot of those are in conjunction with other

programming that was already scheduled. I will say that virtually all of our new construction since the 1970's probably is in compliance anyhow simply because some of the design and criteria were coming about then although even that has changed a little bit, and some of those may have to be fixed as well. But, no, at this point, we don't have a full survey.

I will mention that our national groups have done a fairly comprehensive survey nationwide which will be released on Wednesday that I believe does ask for some specific information about ADA and I believe 11 other Federal mandates.

Mr. MICA. Do you know what the cost figures they are going to release on Wednesday will be?

Mr. HILL. No, I don't. I haven't seen it yet myself.

Mr. MICA. Another question that I have is dealing with enforcement, sometimes enforcement becomes a mandate or is a mandate for compliance particularly in the environmental area. Do you see a duplication required or could we establish some flexibility that would allow, say, State or local government to take over some of these enforcement areas? I am real nut. I am going after EPA in particular because we have instances in Florida where they do things, our State EPA does things, and the cost is—well, the function for enforcement is duplicative. The cost is expensive, and then the cost of compliance is outrageous so you are getting a doubling-up effect on both ends. What is your opinion?

Mr. GREIDER. Well—

Mr. MICA. In fact, both of you can respond.

Mr. GREIDER. EPA has been one of the agencies that has said that they—they even set up an office of regulatory flexibility within their office, and the Director of EPA has said that everything has to go through that office to look at what the effects on all different local governments are. That is just being implemented now. I think it is a great—

Mr. MICA. That is Federal—

Mr. GREIDER. Yes. It is a great step forward—

Mr. MICA [continuing]. To State—with the State?

Mr. GREIDER. As I see most of the time, the State gets the mandate from the Federal Government and passes it almost directly on. They have maybe a little bit more sensitivity, but they are so afraid of losing funds someplace else that they pretty much follow the Federal regs to the T. There is very little flexibility.

Mr. MICA. Mr. Hill.

Mr. HILL. Let me give you one different example, I suppose. Pennsylvania was one of the lead States in the Nation in coming to terms with the solid waste management problem, and a number of years ago we passed legislation which placed the solid waste planning responsibility at the county level. I think the Federal Government is just catching up with that. RCRA, in any of its various iterations at the moment, will ultimately have some planning requirement.

Where it impacts on us most directly at the moment, however, is that Pennsylvania also got an early jump on the security of the landfills. Pennsylvania was, I believe, one of the first States to require dual lining and had some very stringent standards put in place, and as a result, I think we closed somewhere in the neigh-

borhood of 1,200 landfills leaving less than 100 open that qualified. And all of those had to dig everything up, reline it and refill it.

And now Federal regulations are just now coming into effect, and we are in the position, even though we have been that far out in front, our technical standards are not exactly the same as EPA's technical standards. And so we are trying to resolve that between our State Department of Environmental Resources and the EPA to say, "We have been good citizens. We have been doing this for some time. We have gotten all the bad guys out. Our standards meet the same objective, but they aren't the same, and can we get that kind of a waiver?" I think we are making some progress there. We haven't finally heard yet.

I will give you another example in the environmental sphere where Federal mandates conflict. One is wetlands protection and the other is air quality. We had one circumstance where a county wanted to put in a park-and-ride lot so that they could better facilitate a new or better—take advantage of a new mass transit route, and they ran into a wetlands problem. And so you have that conflict very frequently between two differing objectives, and there isn't really a process in place right now that would try to resolve those two differences. So you have one division of EPA saying you can't do this, and you have the other saying but you need to do this.

Mr. MICA. Thank you, and I will yield back, Mr. Chairman.

Mr. TOWNS. Thank you very much. At this time, I recognize Congressman Gekas. Congressman Goodling.

Mr. GOODLING. I am not going to take time since I am not on this committee, only to thank you for having us, and if they have any comments to make about the Moran-Goodling Fair Act, please put them in writing and send them.

Mr. TOWNS. Well, we have no problem extending the courtesy to you. Let me just ask you one question. A few weeks ago, this subcommittee held a hearing on the ability of State and local governments to implement health care and welfare reform proposals. Do either of you have any indication of the type of financial burden these reforms would put on towns and counties in Pennsylvania?

Mr. HILL. I would suspect in the Pennsylvania model most of that would fall to the county level. In Pennsylvania, the cities, boroughs, and townships really do very little in the way of human services. Most of that is at the county level. Where we see our primary concerns, one is relatively small and that as employers and what effect that has on our work force, but the large effect is really an unresolved question of who has the ultimate responsibility in our State for indigent care and where that ultimately will rest.

We also have some concern with the historic reimbursement levels that we have seen under Medicaid. We think the fact that there is 60 to 80 cents out of the typical health care dollar is all that is reimbursed in Pennsylvania causes a significant amount of cost shifting, and others, either private pay or insurers or in some cases county government, pick up the differential in those costs. Minimal health services, for example, are provided at the county level. The State provides a match. We use some Federal block grant money as a match, but there is still a significant portion of that that the counties provide out of local taxpayer dollars.

Mr. TOWNS. Did you want to comment on that?

Mr. GREIDER. Well, it is counties, and we are thankful for that.

Mr. HILL. I am sorry. You asked a specific dollar amount. Right now in Pennsylvania, for example, mental health is about \$500 million, and that is the county noninstitutional level—community settings primarily.

Mr. TOWNS. Well, let me thank both of you for your testimony. You have been very helpful in terms of sorting out some things for us to sort of begin to chew on. So thanks again, Mr. Hill, and also Mr. Greider for your testimony.

Mr. HILL. Thank you.

Mr. GREIDER. Well, we thank you and think it is very important to have these hearings.

Mr. TOWNS. Thank you. Calling the next panel, our next panel of witnesses are Senator Michael O'Pake, chairman of the committee on intergovernmental affairs and Senator Hal Mowery, ranking minority member of the committee on intergovernmental relations.

Mr. GEKAS. Mr. Chairman, I might here as host add another significant connection between these witnesses and those of us who served in the State senate before. Senator Mowery represents part of the district that Congressman Goodling and I represent on the Federal level, and Senator O'Pake and I served in the senate together many years ago, and some of our work is being remembered, I think. They add a great deal to the presentations that are going to be made on these very important subjects because they live with these problems every single day.

Mr. TOWNS. Thank you very much for your comments, and let me say too to Senator O'Pake and to Senator Mowery it is a pleasure to have you before the subcommittee. Your prepared statement will be included in the record in total. If you would just summarize within 5 minutes and then allow the committee to be able to raise questions, we certainly would appreciate that. So you can begin, Senator O'Pake.

STATEMENT OF MICHAEL A. O'PAKE, SENATOR AND CHAIRMAN, PENNSYLVANIA SENATE COMMITTEE ON INTERGOVERNMENTAL AFFAIRS, ACCOMPANIED BY KAY PACKER, EXECUTIVE DIRECTOR; AND PAUL DLUGOLECKI, EXECUTIVE DIRECTOR, SENATE APPROPRIATIONS COMMITTEE

Mr. O'PAKE. Thank you, Chairman Towns, Congressman Clinger, Congressman Mica, Congressman Goodling, and our former colleague, Congressman Gekas. We miss you, George. You are welcome to come back any day, and we are fixing up the senate chamber for you, as a matter of fact.

As the chairman of our State senate's committee on intergovernmental affairs, I am pleased to welcome you to the Pennsylvania State capital, and I thank you for the opportunity to speak. I appreciate your holding this important hearing on the impact of unfunded or underfunded Federal mandates on State and local governments. For the past 6 years, unfunded mandates have been a priority concern for the National Conference of State Legislatures members across the country.

Pennsylvania's State government, in fact, has been forced to cope with its severe budget shortfalls by holding the line on hiring, cap-

ping State agency budgets, and even furloughing thousands of State employees in the last few years. It is all we can do to keep up with our own State budget commitments. Federal mandates, therefore, are like nails in our coffin.

While it is difficult to quantify the precise fiscal impact of all of the unfunded Federal mandates on Pennsylvania, the number easily reaches the range of hundreds of millions of dollars and most probably it is billions. For example, while medical assistance costs are shared by both the State and Federal Governments, program additions or changes mandated by Federal law between 1986 and 1990 according to our State Department of Public Welfare, boosted Pennsylvania State government's medical assistance costs by more than \$160 million in fiscal year 1991-92 alone, one of the reasons we had to pass a substantial tax increase that year.

In the 1992-93 fiscal year, these mandated State Medicaid expenditures rose another \$218 million, and we know those costs are even higher now. In point of fact, the hemorrhage of medical assistance costs makes Medicaid the biggest budget buster faced by Pennsylvania and by just about every other industrial State. According to the Pennsylvania-based Commonwealth Foundation, Medicaid currently costs the States nationwide \$44 billion while the total States' tab for unfunded Federal mandates is estimated at some \$75 billion. That is with a B.

Another area is the programs that the Federal Government starts and then leaves the States picking up the tab when the Federal Government recedes from its commitment. A prime candidate for one of the most costly unfunded Federal mandates of late has got to be the 1991 Americans with Disabilities Act. While no one argues with the laudable goal of making public facilities accessible to the handicapped, the ADA compliance costs cannot be underestimated.

And you asked before about numbers. Numbers are hard to get here, but Pennsylvania's Department of Transportation estimates the State cost of curb cuts alone at \$118 million, while Philadelphia city officials have estimated their full ADA compliance costs at \$260 million, and that is just one city. Nationwide, the U.S. Department of Transportation in 1991 projected that ADA would cost the Nation's 550 public transit systems somewhere between \$850 million and \$1.3 billion a year. As I said, while unquestionably laudable, ADA is one of the granddaddies of unfunded Federal mandates.

And there are others: The Federal Clean Air Act, the Safe Drinking Water Act, the Clean Water Act's national pollution discharge elimination systems section, and even the recent motor voter law. All of these place unfunded mandates on the State and local governments, and some, such as the Clean Air Act's auto emissions inspection requirements, come with hundreds of millions of dollars in Federal sanctions if we don't comply.

The area I want to get to briefly, but it is more fully developed in my full statement, is the area where the Federal Government starts a program and then backs away from paying for it. Two examples come to mind: The Women, Infants, and Children's, the WIC, Nutrition Program, and the Low Income Housing Energy Assistance Program, LIHEAP. In the case of the WIC program, in-

stead of reducing food and nutrition for poor women and children as a result of reduced Federal funding in 1986-87, Pennsylvania became the first State in the Nation to supplement that program with \$7 million in State funds the first year. Today, Pennsylvania's 1993-94 State budget includes \$17.5 million in State funds for this Federal program.

The Federal Low Income Home Energy Assistance Program is another story. Because of inadequate Federal funding, our State Department of Public Welfare has been forced to announce major cuts in this year's LIHEAP program. The approximately 90,000 eligible Pennsylvania families who will not receive help this year to pay their winter fuel bills don't know who to blame, and Pennsylvania's State government, because it is forced to impose the cut-back for a lack of Federal funding, is left holding the bag.

We must restore fiscal responsibility to every level of government, and Pennsylvania's State government is not immune to that wisdom. That is why the Pennsylvania senate has unanimously passed a proposed amendment to the State constitution, which was senate bill 4, requiring that all future State government mandates on local governments be fully funded. Our Federal Government should take similar action, and I note with some hope you have before you the opportunity.

I have been advised that there are at least 16 Federal mandate relief bills pending in Congress. Some call for full funding of mandates, and others provide for an exemption from requirements unless money is provided to pay for them. I applaud in particular two proposals, Congressman Clinger's House H.R. 886, and the Moran-Goodling legislation, H.R. 1295, both of which would appear to improve the fiscal note process in general and would specifically apply to our greatest nemeses, regulations, and reconciliation bills. The strategy enhanced and embraced by both these proposals looks like a good starting point.

I think everyone here today understands that it is time for all of us to rethink our approach to creating public policy and programs. We must all, legislators and regulators alike, assume responsibility for weighing State and local fiscal conditions and for assessing costs, benefits, and risks before passing legislation or adopting regulations. For all of us, the time for fiscal reality is now. I would be glad to respond to questions after Senator Mowery, and I have with me the executive director of the senate appropriations committee, Mr. Paul Dlugolecki, and the executive director of the senate intergovernmental affairs committee, Mrs. Kay Packer. Thank you.

[The prepared statement of Mr. O'Pake follows:]



Senate of Pennsylvania

TESTIMONY OF
SENATOR MICHAEL A. O'PAKE, CHAIRMAN
PENNSYLVANIA SENATE COMMITTEE ON INTERGOVERNMENTAL AFFAIRS

CONCERNING
"UNFUNDED FEDERAL MANDATES"

BEFORE THE
HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE
OF THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

OCTOBER 25, 1993

Testimony of
Senator Michael A. O'Pake

CHAIRMAN TOWNS, CONGRESSMAN CLINGER, DISTINGUISHED MEMBERS OF THE CONGRESSIONAL SUBCOMMITTEE AND GUESTS, GOOD MORNING. AS THE CHAIRMAN OF OUR STATE SENATE'S COMMITTEE ON INTERGOVERNMENTAL AFFAIRS, I AM PLEASED TO WELCOME YOU TO THE PENNSYLVANIA STATE CAPITOL, AND I THANK YOU FOR THE OPPORTUNITY TO SPEAK.

I APPRECIATE YOUR HOLDING THIS IMPORTANT HEARING ON THE IMPACT OF UNFUNDED (OR UNDER-FUNDED) FEDERAL MANDATES ON STATE AND LOCAL GOVERNMENTS. FOR THE LAST SIX YEARS, UNFUNDED MANDATES HAVE BEEN A PRIORITY CONCERN FOR NCSL MEMBERS ACROSS THE COUNTRY. UNTIL RECENTLY, HOWEVER, OURS HAS BEEN A LONE VOICE IN THE WILDERNESS -- SO WE WELCOME WITH OPEN ARMS THOSE WHO JOIN STATE LEGISLATORS TODAY TO SOUND THE ALARM.

SIMPLY PUT, OUR NATION'S STATES AND LOCAL MUNICIPALITIES CANNOT TAKE IT ANY MORE. ENOUGH IS ENOUGH!

EMERGING FROM THE LONGEST RUNNING ECONOMIC DOWNTURN SINCE THE GREAT DEPRESSION, PENNSYLVANIA -- LIKE EVERY OTHER STATE I KNOW OF -- HAS NO POT OF GOLD SITTING AT THE END OF ITS RAINBOW.

PENNSYLVANIA STATE GOVERNMENT IN FACT HAS BEEN FORCED TO COPE WITH ITS SEVERE BUDGET SHORTFOLLS BY HOLDING THE LINE ON HIRING, CAPPING STATE AGENCY BUDGETS, AND EVEN FURLOUGHING THOUSANDS OF STATE EMPLOYEES IN THE LAST FEW YEARS.

IT'S ALL WE CAN DO TO KEEP UP WITH OUR OWN STATE BUDGET COMMITMENTS. FEDERAL MANDATES, THEREFORE, ARE LIKE NAILS IN OUR COFFIN.

WHILE IT'S DIFFICULT TO QUANTIFY THE PRECISE FISCAL IMPACT OF ALL UNFUNDED FEDERAL MANDATES ON PENNSYLVANIA, THE NUMBER EASILY REACHES THE RANGE OF HUNDREDS OF MILLIONS OF DOLLARS. MOST PROBABLY, IT'S BILLIONS.

FOR EXAMPLE: WHILE MEDICAL ASSISTANCE COSTS ARE SHARED BY BOTH THE STATE AND FEDERAL GOVERNMENTS, PROGRAM ADDITIONS OR CHANGES MANDATED BY FEDERAL LAW BETWEEN 1986 AND 1990 (ACCORDING TO OUR STATE DEPARTMENT OF PUBLIC WELFARE) BOOSTED PENNSYLVANIA STATE GOVERNMENT'S MEDICAL ASSISTANCE COSTS BY MORE THAN \$160 MILLION IN FISCAL YEAR 1991-92 ALONE. IN THE 1992-93 FISCAL YEAR, STATE MEDICAID EXPENDITURES ROSE ANOTHER \$218 MILLION, AND WE KNOW THESE COSTS ARE EVEN HIGHER NOW.

IN POINT OF FACT, THE HEMORRHAGE OF MEDICAL ASSISTANCE COSTS MAKES MEDICAID THE BIGGEST BUDGET-BUSTER FACED BY PENNSYLVANIA -- AND BY JUST ABOUT EVERY OTHER STATE. ACCORDING TO THE PENNSYLVANIA-BASED COMMONWEALTH FOUNDATION, MEDICAID CURRENTLY COSTS THE STATES NATIONWIDE \$44 BILLION WHILE THE TOTAL STATES' TAB FOR UNFUNDED FEDERAL MANDATES IS ESTIMATED AT SOME \$75 BILLION.

THE DRIVE FOR NATIONAL HEALTH CARE REFORM, MEANWHILE, HOLDS BOTH PROMISE AND PERIL FOR THE STATES. OUR HOPE IS THAT IT WILL REDUCE AND CONTROL SPIRALING MEDICAID COSTS. THE DANGER IS THAT -- DEPENDING ON WHAT IS FINALLY ENACTED -- SUCH FEDERAL REFORM COULD IMPOSE FAR MORE ADMINISTRATIVE COSTS ON THE STATES, AND AT THE SAME TIME LIMIT THE STATES' DISCRETION IN PAYING BENEFITS.

A PRIME CANDIDATE FOR ONE OF THE MOST COSTLY UNFUNDED FEDERAL MANDATES OF LATE HAS TO BE THE 1991 AMERICANS WITH DISABILITIES ACT (ADA). WHILE NO ONE ARGUES WITH THE LAUDIBLE GOAL OF MAKING PUBLIC FACILITIES ACCESSIBLE TO THE HANDICAPPED, THE ADA COMPLIANCE COSTS CANNOT BE UNDER-ESTIMATED.

PENNSYLVANIA'S DEPARTMENT OF TRANSPORTATION ESTIMATES THE STATE COST OF CURB CUTS ALONE AT \$118 MILLION, WHILE PHILADELPHIA CITY OFFICIALS HAVE ESTIMATED THEIR FULL ADA COMPLIANCE COSTS AT \$260 MILLION. NATIONWIDE, THE U.S. TRANSPORTATION DEPARTMENT IN 1991 PROJECTED THAT ADA WOULD COST THE NATION'S 550 PUBLIC TRANSIT SYSTEMS SOMEWHERE BETWEEN \$850 MILLION AND \$1.3 BILLION A YEAR.

AS I SAID, WHILE UNQUESTIONABLY LAUDIBLE, ADA IS ONE OF THE GRAND-DADDIES OF UNFUNDED FEDERAL MANDATES.

AND THERE ARE OTHERS: THE FEDERAL CLEAN AIR ACT, THE SAFE DRINKING WATER ACT, THE CLEAN WATER ACT'S NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM SECTION, AND EVEN THE RECENT MOTOR VOTER LAW. ALL OF THESE PLACE UNFUNDED MANDATES ON THE STATES AND LOCAL MUNICIPALITIES. AND SOME, SUCH AS THE CLEAN AIR ACT'S AUTO EMISSIONS INSPECTION REQUIREMENTS, COME WITH HUNDREDS OF MILLIONS OF DOLLARS IN FEDERAL SANCTIONS IF WE DON'T COMPLY.

FURTHER, WE HAVE WITNESSED THE FEDERAL GOVERNMENT'S CREATION AND INITIAL FUNDING OF PROGRAMS, TO BE ADMINISTERED BY THE STATES, THAT ARE LATER SLASHED BECAUSE OF INSUFFICIENT FEDERAL DOLLARS. AND WHILE THIS CATEGORY OF PROGRAMS IS NOT MANDATED BY

THE FEDERAL GOVERNMENT, IT IS THE STATES THAT ARE MOST OFTEN BLAMED WHEN SERVICES ARE REDUCED.

TWO EXAMPLES COME TO MIND: THE WOMEN, INFANTS AND CHILDREN'S (WIC) NUTRITION PROGRAM, AND THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP). IN THE CASE OF THE WIC PROGRAM, INSTEAD OF REDUCING FOOD AND NUTRITION FOR POOR WOMEN AND CHILDREN AS A RESULT OF REDUCED FEDERAL FUNDING IN 1986-87, PENNSYLVANIA BECAME THE FIRST STATE IN THE NATION TO SUPPLEMENT THE PROGRAM WITH \$7 MILLION IN STATE FUNDS. TODAY, PENNSYLVANIA'S 1993-94 STATE BUDGET INCLUDES \$17.5 MILLION IN STATE FUNDS FOR THIS FEDERAL PROGRAM.

THE FEDERAL LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM, HOWEVER, IS A DIFFERENT STORY. BECAUSE OF INADEQUATE FEDERAL FUNDING, OUR STATE DEPARTMENT OF PUBLIC WELFARE HAS BEEN FORCED TO ANNOUNCE MAJOR CUTS IN THIS YEAR'S LIHEAP PROGRAM. THE APPROXIMATELY 90,000 ELIGIBLE PENNSYLVANIA FAMILIES WHO WILL NOT RECEIVE HELP THIS YEAR TO PAY THEIR WINTER FUEL BILLS DON'T KNOW WHO TO BLAME. AND PENNSYLVANIA STATE GOVERNMENT, BECAUSE IT'S FORCED TO IMPOSE THE CUTBACK FOR A LACK OF FEDERAL FUNDING, IS LEFT HOLDING THE BAG.

MR. CHAIRMAN, "WHO PAYS FOR WHAT BENEFITS AND PUBLIC SERVICES" -- AS NOTED BY THE COMMONWEALTH FOUNDATION -- IS A COMPREHENSIVE PROBLEM FACED BY ELECTED OFFICIALS AT ALL LEVELS OF GOVERNMENT: LOCAL, STATE AND NATIONAL.

THE "DO MORE WITH LESS", "TRICKLE-DOWN" PHILOSOPHY OF THE REAGAN-BUSH YEARS IN WASHINGTON IN FACT TRIGGERED THE SHIFTING OF

MORE COSTS TO THE STATES, WHICH IN TURN HAVE SHIFTED TOO MANY COSTS ON TO LOCAL GOVERNMENTS. OUR TAXPAYERS AT ALL LEVELS ARE NOW PAINFULLY AWARE OF THE REALITY THAT THERE IS NO "FREE LUNCH".

WE MUST RESTORE FISCAL RESPONSIBILITY TO EVERY LEVEL OF GOVERNMENT, AND PENNSYLVANIA STATE GOVERNMENT IS NOT IMMUNE TO THAT WISDOM.

THAT'S WHY THE PENNSYLVANIA SENATE HAS UNANIMOUSLY PASSED A PROPOSED AMENDMENT TO THE STATE CONSTITUTION (SB 4) REQUIRING THAT ALL FUTURE STATE GOVERNMENT MANDATES ON LOCAL GOVERNMENTS BE FULLY FUNDED.

OUR FEDERAL GOVERNMENT SHOULD TAKE SIMILAR ACTION, AND -- I NOTE WITH SOME HOPE -- YOU HAVE BEFORE YOU THE OPPORTUNITY. I AM AWARE OF AT LEAST 16 FEDERAL MANDATE RELIEF BILLS PENDING IN CONGRESS. SOME CALL FOR FULL FUNDING OF MANDATES, AND OTHERS PROVIDE FOR AN EXEMPTION FROM REQUIREMENTS UNLESS MONEY IS PROVIDED TO PAY FOR THEM. I APPLAUD IN PARTICULAR TWO PROPOSALS: CONGRESSMAN CLINGER'S HR 886 AND THE MORAN-GOODLING LEGISLATION, HR 1295, BOTH OF WHICH WOULD APPEAR TO IMPROVE THE FISCAL NOTE PROCESS IN GENERAL, AND WOULD SPECIFICALLY APPLY TO OUR GREATEST NEMESSES -- REGULATIONS AND RECONCILIATION BILLS. THE STRATEGY EMBRACED BY BOTH THESE PROPOSALS LOOKS LIKE A GOOD STARTING POINT.

I THINK EVERYONE HERE TODAY UNDERSTANDS THAT IT'S TIME FOR ALL OF US TO RE-THINK OUR APPROACH TO CREATING PUBLIC POLICY. WE MUST ALL -- LEGISLATORS AND REGULATORS ALIKE -- ASSUME RESPONSIBILITY FOR WEIGHING STATE AND LOCAL FISCAL CONDITIONS,

FOR ASSESSING COSTS, BENEFITS AND RISKS BEFORE PASSING
LEGISLATION OR ADOPTING REGULATIONS. FOR ALL OF US, THE TIME FOR
FISCAL REALITY IS NOW.

THANK YOU.

Mr. TOWNS. Thank you very much, Senator. Senator Mowery.

STATEMENT OF HAL MOWERY, SENATOR AND RANKING MINORITY MEMBER, PENNSYLVANIA SENATE COMMITTEE ON INTERGOVERNMENTAL AFFAIRS

Mr. MOWERY. Thank you very much. It is a pleasure to be here before such a distinguished panel, and I appreciate your taking the time out of your busy schedule to be here with us in Pennsylvania.

I do not suppose that the term "Mandate Rebellion" is quite as colorful as "Whiskey Rebellion" or "Sagebrush Rebellion" or other passionate, historical objections to Federal authority. But it captures the frustration and resentment running high as citizens and officials balk at the costs, the red tape, the bureaucracy, and the aggravation tied to unfunded mandates.

Pennsylvania has a State constitutional requirement for a balanced budget. This is a real advantage for avoiding runaway spending and preventing policymaking that consistently disregards fiscal considerations. However, the flood of ever expensive dictates flowing from Washington also makes a balanced State budget a very painful straitjacket. We can still struggle to balance the budget in financial terms, but there is a growing imbalance between what we want to do as a matter of priority and what we must do as a matter of mandate.

Apart from the condition of the national economy, no factor is so influential on our budget as the price tag for the growing body of mandated responsibilities. At a time when no level of government is awash with revenue, Pennsylvania's current budget contemplates nearly \$1 billion in spending above last year. Areas of mandate, Medicaid being the most notable, are driving much of the increase. That inhibits our ability to respond to public interest in reining in spending or making badly needed improvements in our State structure to rebuild our job climate. Even when there is some effort to judge the costs of new requirements, experience shows that the real impact is inevitably far greater.

The cities first ran out of resource sponges to soak up the cascade of responsibilities and dictates. Now States are surpassing the saturation point. The negative impact is felt on the economy, in education, and human services as the quality and quantity of efforts sacrifices what should be done in our estimation locally. States too have to search for an ineffective remedy. There is growing support for an amendment to our State constitution that would exempt local governments from State mandates unless the funding is attached. This is a needed check and balance against the legislative desire for dumping responsibilities and costs. It is time for Congress to consider and enact some similar protection for our State governments.

As the costs and consequences of mandates becomes apparent, we too frequently say Federal action producing extended litigation rather than cooperation. The inclination of us to use related funding as a hammer for compliance rather than direct funding as an incentive suggests that power is the issue rather than fairness and common sense.

Whereas the public may have once regarded debate over mandates as a sort of "inside-the-beltway" dodge for accountability,

they have come to realize the costs associated with the explosion of laws and regulations. Clean air, safe highways, good schools, and accessible health care are laudable goals, but the declining cost-benefit ratio of many mandates has soured the public on higher level solutions and the concentration of power in Washington. Where there is an undeniable national interest involved, pay for it at the same level where the standards are established.

Then we will see less debate about the size of the bill and who pays for it, and more attention to the successful implementation of needed programs and policies. The public antagonism toward government cannot diminish while government insists on being antagonistic to itself.

The cure is not a partisan one in the sense of exchanging one party for another. The cure comes only through a sharp change in habit and practice that must be adopted by both parties. When the Clinton administration and Congress set out to reinvent government, it would be appreciated if they would take some time to repair the relationship between levels of government and restrain the impulse for imposing more unfunded mandates.

I think that many of the situations that were presented by Senator O'Pake are very much confirmed from my presentation, but rather than repeat many of them, I think they were well presented by Senator O'Pake. Thank you.

[The prepared statement of Mr. Mowery follows:]

Senator Harold F. Mowery, Jr.
Statement Regarding Unfunded Federal Mandates
October 25, 1993

I do not suppose that the term "Mandate Rebellion" is quite as colorful as "Whiskey Rebellion" or "Sagebrush Rebellion" or other passionate, historical objections to federal authority. But it captures the frustration and resentment running high as citizens and officials balk at the costs, the red tape, the bureaucracy, and the aggravation tied to unfunded mandates.

Pennsylvania has a state Constitutional requirement for a balanced budget. That is a real advantage for avoiding runaway spending and preventing policymaking that consistently disregards fiscal considerations. However, the flood of ever expensive dictates flowing from Washington also makes a balanced state budget a painful straitjacket. We can still struggle to balance the budget in financial terms, but there is a growing imbalance between what we want to do as a matter of priority and what we must do as a matter of mandate.

Apart from the condition of the national economy, no factor is so influential on our budget as the pricetag for the growing body of mandated responsibilities.

At a time when no level of government is awash in revenue, Pennsylvania's current budget contemplates nearly one billion dollars in spending above last year. Areas of mandate, Medicaid being the most notable, are driving much of the increase. That inhibits our ability to respond to public interest in reining in spending or making badly needed improvements in our tax structure to rebuild our job climate. Even when there is some effort to judge the costs of new requirements, experience shows that the real impact is inevitably far greater.

The cities first ran out of the resource sponges to soak up the cascade of responsibilities and dictates. Now states are surpassing the saturation point. The negative impact is felt on the economy, in education, in human services, as the quantity of efforts sacrifices quality.

States too have to search for an effective remedy. There is growing support for an amendment to our state Constitution that would exempt local governments from state mandates unless funding is attached. This is a needed check and balance against the legislative penchant for dumping responsibility and costs.

It is time for Congress to consider and enact some similar protection for state governments.

As the costs and consequences of mandates become apparent, we too frequently see federal action producing extended litigation, rather than cooperation for progress. The inclination to use related funding as a bludgeon for compliance, rather than direct funding as an incentive, suggests that power is the issue rather than fairness and common sense.

Whereas the public may have once regarded debate over mandates as a sort of "inside-the-Beltway" dodge for accountability, they have come to realize the costs associated with the explosion of laws and regulations. Clean air, safe highways, good schools, and accessible health care are laudable goals, but the declining cost-benefit ratio of many mandates has soured the public on higher level solutions and the concentration of power in Washington. Where there is an undeniable national interest involved, pay for it at the same level where the standards are established.

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The cure is not a partisan one in the sense of exchanging one party for another. The cure comes only through a sharp change in habit and practice that must be adopted by both parties. When the Clinton Administration and Congress set out to reinvent government, it would be appreciated if they take some time to repair the relationship between levels of government and restrain the impulse for imposing unfunded mandates.

Mr. TOWNS. Let me thank you, and we thank you too, Senator O'Pake, for your very powerful testimony. At this time, I would like to yield to the ranking member of the full committee, Mr. Clinger.

Mr. CLINGER. Thank you very much, Mr. Chairman, and Senator O'Pake, Senator Mowery. We appreciate your coming before us. We share a mutual problem, because both of the Federal Government and the State governments are under increasing pressure from local governments to curb our appetites for trying to tell them what to do. I said earlier that the old, somewhat cynical remark about, "We are here from the Federal Government. We are here to help you," at least with regard to how it affects townships and counties should be amended to read, "We are here from the Federal Government. We are here to help you go bankrupt." That has too often, I think, been the case in the past.

Certainly Congressman Goodling and Congressman Moran's proposal talks in terms of cost-benefit ratios, trying to figure out before we impose a mandate what is the impact really going to be in terms of what the benefit is going to be. Do we do anything like that in Pennsylvania? Do we try and estimate what the ultimate cost to the communities might be? And, if so, do you think it would act as a deterrent perhaps to the imposition of additional mandates? In other words, when we look at this thing and say, "Hey, that is outrageous. We really shouldn't do that," could it be a deterrent or is it a deterrent?

Mr. O'PAKE. We do have a requirement that any bill before a final passage in the senate must have a fiscal note which is prepared by the senate appropriations committee which does project the cost of that, not only in the immediate year that we are talking about but a few years down the road so that theoretically at least everyone voting on every bill knows what the fiscal impact is going to be down the road.

Mr. CLINGER. To the communities it is going to be applied to?

Mr. O'PAKE. That applies only, however, to the State government and the impact on the State budget.

Mr. CLINGER. How would you feel about imposing a requirement on the State government, as we are proposing to do in Congressman Goodling's bill, the Federal Government, to really analyze what would be the impact on the level of local governments you are going to be impacting?

Mr. O'PAKE. Well, I think you should first start with analyzing what the impact is going to be on State governments. I think that is vitally important because politicians being what they are, and I am one of them, we like to dispense a lot of goodies, and we like to expand eligibility, and we like to say that there are more benefits out there.

Well, there is no free lunch, and somebody is going to have to pay for them, and, unfortunately, a lot of the expansion of eligibility that you have done in Washington has wound up being a financial responsibility for States and local governments because as the county commissioners and local government spokesmen said that they have to carry out a lot of the programs. But it starts at the top, and at least if Congress would know what the fiscal impact is going to be on States, I think that would be a very, very important reform and is a starting point.

Mr. MOWERY. I would just like to add to that that I also feel that this committee could, I think, be the center of a relationship between our Federal Government and our State government as well as with our local government.

You know, so many times we in the State try to do and move ahead on certain particular projects that we feel are very important. And Federal Government many times may be 1 year, 2 years, 3 years behind use, and then all of a sudden they mandate what we have to do which we have already been doing, but now we have to go back and change what may have been working very well in Pennsylvania, maybe not as well possibly in another State.

And I think our committee, if we would really look into how we can work closer together, what are our concerns in Pennsylvania, what are your concerns at the national level to allow us to try and mesh before we mandate, I think, makes an awful lot of sense.

Mr. CLINGER. Well, I think you are hitting on a concept that I think has to be central to this discussion and that is the need for greater flexibility in what we impose on you and what you, in turn, impose on the local government. When we put people in strait-jackets and say you must do it this way, no other way, I think that becomes a very difficult thing to impose. We all recognize we need greater flexibility in this area. Gentlemen, thank you, and I would yield back the balance of my time.

Mr. TOWNS. Thank you very much, Congressman Clinger. At this time, I yield to Congressman Mica.

Mr. MICA. Well, first I want to thank Senator O'Pake for succinctly compiling the record which is pretty dismal of what we have done from the Federal Government to the State and local governments. It is something that we should almost require every member to initial and see before they vote on another one. And you point out here and some of your figures point out the spiraling cost of Medicaid which is an awesome part in your budget and Florida's budget that is going through the ceiling.

What concerns me, and I think you heard the chairman in his opening statement say we have imposed, and I think I said this at our little press gathering before, 172 unfunded mandates since 1980, I believe it is. In another hearing we held, the fact came out that the Clinton proposal for health care has 79 unfunded mandates in it. I don't know if your staff or you have looked at anything, we don't have the legislation before us—it was just the draft proposals—but, I mean, we could be dealing with the mother of all unfunded mandates here, and I just wondered if anyone has looked at what that is going to do with 79 potential unfunded mandates?

Mr. O'PAKE. We are in the process of doing that. Of course, the first problem is we really don't know what is going to happen. Our Governor—

Mr. MICA. Maybe this week or next week we will know.

Mr. O'PAKE. Really? Well, I hope. But you have raised a very, very valid point. However, we would like to analyze the impact of the Clinton plan because Governor Casey has his own plan, and we are trying to figure out where the flexibility really comes in. But one thing it looks like and that is that States are going to have more administrative responsibilities, and that, of course, is not free.

However, the larger issue of collecting this data—we are doing more. We will have more numbers for you—the impact on DER, for example, the whole environmental thing. This is overwhelming. Getting these numbers is almost like pulling teeth. We are trying to compile them, and our committee in the weeks and perhaps months ahead hopes to do an even better job with the senate appropriations committee in finding out what the dollar impact is, not only on State government but on the local governments throughout Pennsylvania.

And we hope as things progress, and Senator Mowery made a very good point, we want our committee to be available to you to help you in improving the dialog because whatever you do impacts severely on States, and I think it is going to get worse before it gets better. So to the extent that our committee can be of help, we are trying to get all this data together on all the areas, not just on transportation and medical assistance but all the other programs that we have to do now.

The answer to your question—we don't know yet because we don't know yet what all these mandates are going to be under the Clinton or under whatever health care reform proposal emerges.

Mr. MICA. Well, the chairman normally leaves the record open several weeks after these hearings. I don't know if he will have time to do that, but I would really appreciate your providing the committee with your analysis of what this health care plan has the potential for impacting as we see the specifics. And the administration has said possibly this week or next week that we will have some specific legislation because it could be, like I said, the mother of all unfunded mandates—be a real blockbuster for you all, and I would like to know the impact as we debate that issue. I will yield back, Mr. Chairman.

Mr. O'PAKE. When we see the plan, we will do our best.

Mr. TOWNS. Thank you very much, and let me just say that the word flexibility keeps coming up, and I agree with you that when we look at the United States of America, there are some areas and some regions of the country just so different that might require some needs that might be there that might not be in other areas so I understand the importance of flexibility.

I think though in terms of, you know, how do we get there, I think that is the question, you know, because as I look at the health care reform package, I can just immediately think of some things in my area that might not be a problem in other areas and recognizing that, you know, that should be addressed, but at the same time how do we do it, I mean, in terms of the flexibility part. Do you have any ideas as to what we might be able to do? Because it keeps popping up on this side—it pops up, and it pops up with the witnesses in terms of flexibility. Do you have any suggestions for us?

Mr. MOWERY. Well, that is a very difficult question. We kind of have the same concerns ourselves many times that you just expressed, but I think that one of the things that we need to do is to work a lot closer together, as I mentioned earlier, and I mean that because as you and I both know, there are an awful lot of special interest groups who are working very closely and make their

contributions by giving you another side of an issue or helping you many times in research and so forth.

We in State government kind of sit here, and we have a lot of resource, and yet we don't formally have the input to many of your hearings like you have here today. Business, most certainly, gives their input, and the medical professions and so forth when you look at what is happening or futuristically could happen in health care. And yet how often do you invite to make testimony on how it is going to impact on a particular State?

As our chairman here has says, we don't know, but this is just not health care. There are a lot of other issues on there. Maybe we should be more active, and maybe you should be more responsive at our hearings to be able to let us have a better communication because the ones that are suffering are our taxpayers who are ending up in many cases paying double taxation on things that could be coordinated at less money.

Mr. O'PAKE. I would not presume to tell you what I think the Federal Government ought to do, and this is one of the problems that the NCSL has had to try to address because what is good for Pennsylvania is not necessarily what is needed in Montana or Wyoming or somewhere far away with different kinds of base. But I think our committee is willing to work with you if we know in advance what kind of things you are considering. That is one of the difficulties. We often learn about these things after they have been enacted, and we will try to give you the benefit of specific impacts as they would fall on Pennsylvania.

But I don't know how you write a law that allows for the kind of flexibility without guaranteeing some basic coverage in other States where the need is greater. I don't know how to answer your question, but our committee would be willing to try to work with you issue by issue to tell you what this does to Pennsylvania's budget and the taxpayers of Pennsylvania.

Mr. TOWNS. I thank both of you very, very much, and I agree with you, it is tough to do that. No question about it. However, I think that when we don't do it sometimes, we get involved in waste, you know, because of the difference in terms of regions and areas, that maybe some things that we are saying that should be done does not really need it in that area, or sometimes we are giving something in the area that they really don't need. But let us face it, I don't know of any form of government that is going to say, "No, don't give it to me. I am not going to take it." You know, they are going to take it, you know, and they might not need it.

So that is also another avenue so I don't know how the legislature is going to be able to shut that down, but I think it is something that we have to be sensitive to, but at the same time, you know, we have mandates that are coming in areas that are already doing things as you pointed out earlier. And now we are saying, "Now we want you to do it, and we want you to do it this way," but it equals the same thing that you have been doing all the time.

Mr. O'PAKE. Well, one of the problems, very frankly, is mandating a whole new program, letting the bureaucrats play with the regulations without having some practical input at the lower level from the people and the governments that are going to have to pay for the implementation, and then eventually the Federal Govern-

ment, if they had any funding there in the first place, backs away from the program, and we get stuck with that, and, frankly, we can't afford that anymore.

And I think if you have that mind-set and that attitude that we don't want a whole lot of more programs mandated and we certainly don't want directions for implementation without getting input from the local governments, the local business community, the local States that have to comply—ADA—I am not sure anybody knows what that is going to wind up costing and how that is going to be interpreted in every municipality and transit authority and State and business throughout this country. So, as I said, it is very laudable to do those things, but keep in mind that somebody has got to pay, and increasingly that is getting bucked down to the States and the locals.

Mr. CLINGER. Mr. Chairman.

Mr. TOWNS. I yield to Mr. Clinger.

Mr. CLINGER. What seems to be evolving here is there is sort of a tension between the need to provide greater flexibility to the States, to the local governments, but then the tension is accountability. In other words, there has to be an accountability at the Federal level for how those funds are being spent. The old revenue sharing program which I thought worked beautifully because it provided the greatest amount of flexibility. Unfortunately, the communities sometimes used it for purposes for which it was never designed so that we lacked an accountability. Somehow the challenge here is to provide the flexibility while retaining accountability for how the money is ultimately spent. And I think that is what we all ought to be working toward. Thank you, Mr. Chairman.

Mr. TOWNS. Thank you. Let me thank you, Senator O'Pake, and also Senator Mowery for your testimony. We look forward to working with you to try and be able to develop something that will make life a little better at every level of government. Thank you very much for your testimony.

Mr. GOODLING. Mr. Chairman, as they leave, I might say keep the faith as far as flexibility is concerned. I worked for 18 years on the education committee to get flexibility in relationship to the education programs we sent back. I failed for 18 years, but this year in Education 2000 flexibility is there so there is hope. And also my staffer told me on the way up that he will have 1,700 pages, I believe he said, to read on Wednesday of the health care bill, and 800 pages of backup material, and 22 pages of introductory remarks by the President. So keep the faith. That is coming too.

Mr. TOWNS. Thank you very much. Our next panel of witnesses are Mayor William Althaus of York, PA; Peter Marshall, borough manager of the State College of Pennsylvania; and John Gaydeski, borough manager of Port Allegany. As the chairman, I would like to welcome you to our subcommittee. Your prepared statement in total will be included in the record. If you would just summarize in 5 minutes which will allow the committee an opportunity to raise questions. Mr. Marshall, why don't you begin?

**STATEMENT OF PETER S. MARSHALL, BOROUGH MANAGER,
STATE COLLEGE, PENNSYLVANIA**

Mr. MARSHALL. Thank you. Unfunded mandates from Federal and State governments are causing a level of financial distress which I have not previously experienced in 32 years as a city manager. Most of this began in the early 1980's and has continued since that time.

Unfortunately, Federal mandates which are funded at the local level rather than the Federal level favor the rich and hurt the poor. Local taxes tend to be significantly more regressive and less fair than Federal taxes. For example, the borough of State College raises money through an occupational privilege tax which is a flat tax on those working in the municipality. Rich and poor alike pay the same tax. This is very regressive.

Contrast this tax to the Federal graduated income tax which does recognize ability to pay. The graduated income tax is designed to be financially progressive rather than regressive in its impact by requiring local governments to fund Federal mandates with local taxes. The Federal Government is placing a more onerous and unfair burden on taxpayers than would be true if the Federal mandates were funded at the Federal level.

More importantly, I believe that if the Federal Government was required to fund its mandates, there would be fewer mandates by far, and those mandates which were initiated would be more reasoned. As it is, there is insufficient reason for the Federal Government to worry about the impact of its decisions. Someone else has to raise the money and worry about the consequences.

Before I go further, let me say for the record that many of the mandates are initiated with good intentions. That is not the issue here. The issue revolves around how the bill is paid. What I want is to require the Federal Government, which has the authority to issue mandates, to also exercise responsibility for funding those mandates. Shifting responsibility to States and local governments is not helpful to our citizens.

Let me give you a few State College examples of the fiscal impact of Federal mandates. State College spent \$18,000 for the testing and removal of underground diesel and fuel oil tanks. We spent \$60,000 for replacement tanks which met Federal and State standards. It is also interesting to note here that both the Federal and the Commonwealth governments seem to have exempted themselves from these requirements.

The borough of State College spent \$20,000 for a sand interceptor and an oil separator so that we could continue to wash our public works and police vehicles. We spent \$13,900 removing asbestos from our municipal building. We are just beginning to understand the scope of costs associated with the ADA mandate. For example, preliminary estimates indicate that it will cost in excess of \$80,000 to assure compliance in just two of our buildings.

You may be interested in a little side-bar example of Federal mandate enforcement. At an ADA seminar put on by the Philadelphia Office of the EEOC, a high ranking EEOC official spoke to the group about the meaning of reasonable accommodation in the ADA regulations. He reassured those attending that his agency would consider the size of the company and its budget when making a de-

termination as to whether undue hardship existed. He added, however, that public entities and local governments would not enjoy the same standard. He stated very clearly that because local governments have the ability to tax, our sources of revenue are unlimited. Virtually no requested accommodation would be viewed as unreasonable.

Unfortunately, this attitude is part of the problem with mandates. Not only are they not funded, but they are sometimes quite outrageous and seem to go far beyond legislative intent. Because the Federal Government is not constrained by a balanced budget, they assume that local government can spend money that it does not have. The fact is, State and local governments are almost always required to operate within a balanced budget, and many local governments are at or are approaching tax caps imposed by the State codes under which they operate.

The requirement that truck drivers obtain a commercial driver's license meant the expenditure of many hours and many dollars in training our employees to pass the test so that our drivers could continue to drive within the borough of State College. In 1989, the State College Water Authority issued \$10 million in bonds; \$7 million of that money was issued to design and construct a water filtration plant which was mandated by the 1986 safe drinking water amendments.

The water authority has been required by Federal mandate to complete a 6 months' series of samples and tests to determine the surface water influence on their wells. All ground water falling under the influence of the surface by definition will require filtration. The water authority estimates it may require as much as \$1 million in capital expenses to comply with this mandate.

In 1993, the borough water authority was required to monitor their water for 30 pollutants. In 1994, the number of pollutants they must monitor will increase to 87. This will result in a budget increase from \$6,500 a year in 1993 to \$19,000 in 1994. The authority's estimate of the cost to monitor future requirements run as high as \$100,000 per year. The water authority has estimated that two-thirds of their total operating expenses go to satisfy Federal unfunded mandates.

I could go on with a seemingly endless list of costs which have been laid on local governments because of Federal mandates. Unfortunately, time does not permit. I thank you for the opportunity of appearing before you.

[The prepared statement of Mr. Marshall follows:]

Borough of State College
Pennsylvania

October 21, 1993

TO: Edolphus Towns, Chairman
Subcommittee on Human Resources
and Intergovernmental Relations
Congress of the United States

FROM: Peter S. Marshall, Borough Manager
State College Pennsylvania

SUBJECT: Comments for the Hearing on the Impact of Federal
Mandates on State and Local Governments, October 25, 1993
10:30 a.m., Harrisburg, PA

Unfunded mandates from Federal and state governments are causing a level of financial distress which I have not previously experienced in my 32 years as a city manager. Most of this began in the early 1980's and has continued since that time.

Unfortunately, Federal mandates which are funded at the local level rather than the Federal level favor the rich and hurt the poor. Local taxes tend to be significantly more regressive and less fair than Federal taxes. For example, the Borough of State College raises money through an Occupational Privilege Tax, which is a flat tax on those working in the municipality. Rich and poor alike pay the same tax. This is very regressive. We also have a Wage Tax on wage earners who live in State College. Taxpayers pay the same percentage of their wages in taxes whether they are poor or rich. Contrast these taxes to the Federal Graduated Income Tax which does recognize ability to pay. The Graduated Income Tax is designed to be financially progressive rather than regressive in its impact. By requiring local governments to fund Federal mandates with local taxes, the Federal Government is placing a more onerous and unfair burden on taxpayers than would be true if the Federal mandates were funded at the Federal level. More importantly, I believe that if the Federal Government was required to fund its mandates there would be fewer mandates, by far, and those mandates which were initiated would be more reasoned. As it is, there is insufficient reason for the Federal Government to worry about the impact of its decisions -- someone else has to raise the money and worry about the consequences.

Before I go further, let me say for the record, that many (but not all) of the mandates are initiated with good intentions. That is not the issue here. The issue revolves around how the bill is

paid. What I want, is to require the Federal Government, which has the authority to issue mandates, to also exercise responsibility for funding those mandates. Shifting responsibility to states and local governments is not helpful to our citizens.

Let us look at a few of the ways local government gets caught by Federal mandates. I say "gets caught" because, in all candor, Federal mandates are obtuse. They sneak up on you and often you don't know where they are coming from or who is responsible. Let me give you a few State College examples of the fiscal impact of federal mandates:

- 1) State College spent \$18,000 for the testing and removal of underground diesel and fuel oil tanks. We spent \$60,000 for replacement tanks which met federal/state standards. Some sizeable portion of that cost was due to Federal mandates. It is also interesting to note here that both the Federal and the Commonwealth governments seem to have exempted themselves from these requirements.
- 2) The Borough of State College spent \$20,000 for a sand interceptor and an oil separator so that we could continue to wash our public works trucks and police vehicles.
- 3) We spent \$13,900 removing asbestos from our municipal building.
- 4) We will spend hundreds of dollars to meet the requirements of the new family and medical leave laws, where we are required to pay for continued health insurance while the employees are permitted up to 12 weeks of leave.
- 5) We are just beginning to understand the scope of costs associated with the ADA mandate. Thousands will be spent complying with this mandate. For example, preliminary estimates indicate that it will cost in excess of \$80,000 to assure compliance in just two of our buildings. You may be interested in a little sidebar example of Federal mandate enforcement. At an ADA seminar, put on by the Philadelphia office of the EEOC, a high ranking EEOC official spoke to the group about the meaning of "reasonable accommodation" in the ADA regulations. He reassured those attending that his agency would consider the size of the company and its budget when making a determination as to whether undue hardship existed. He added, however, that public entities and local governments would not enjoy the same standard. He stated very clearly that, because local governments have the ability to tax, our sources of revenue are unlimited. Virtually no requested accommodation would be viewed as

unreasonable. Unfortunately, this attitude is part of the problem with mandates. Not only are they not funded but they are sometimes quite outrageous and seem to go far beyond legislative intent. Because the Federal Government is not constrained by a balanced budget they assume that local government can spend money that it does not have. The fact is, state and local governments are almost always required to operate within a balanced budget and many local governments are at or approaching tax caps imposed by the state codes under which they operate.

- 6) The requirement that truck drivers obtain a commercial drivers license meant the expenditure of many hours and many dollars in training our employees to pass the test so that our drivers could continue to drive within the Borough of State College.
- 7) COBRA is an example of an underfunded mandate where the municipality is required to continue group health coverage for employees who leave their employment and for worker's dependents. A two percent administrative fee is allowed but it does not cover the cost of administering the mandate.
- 8) In 1989 the State College Water Authority issued \$10 million in bonds. \$7 million of that money was used to design and construct a water filtration plant which was mandated by the 1986 Safe Drinking Water Act amendments. Almost 40% of the present water rate is the result of the capital costs of this mandate.
- 9) The Water Authority has been required by federal mandate to complete a six-month series of samples and tests to determine the surface water influence on their wells. All ground water falling under the influence of the surface by definition will require filtration. The Water Authority estimates that it may require as much as a million dollars in capital expenses to comply with this mandate.
- 10) In 1993 the Borough Water Authority was required to monitor their water for 30 pollutants. In 1994 the number of pollutants they must monitor will increase to 87. This will result in a budget increase from \$6,500 in 1993 to \$19,000 in 1994. The Authority's estimate of the cost to monitor future requirements run as high as \$100,000 per year. The Water Authority has estimated that two-thirds of their total operating expenses go to satisfy Federal unfunded mandates. The potentially sad thing about the EPA mandates is reflected in a quote which has been attributed to EPA Administrator William K.

Reilly, in March of 1991. He is reported to have said that Federal environmental laws are "more reflective of public perceptions of human risk than of scientific understanding of risk."

I could go on with a seemingly endless list of costs which have been laid on local governments because of Federal mandates. Time does not permit it. I would, however, like to summarize several points which I think are worthy of consideration.

- Federal mandates encourage the Federal Government to be less fiscally responsible.
- Unfunded Federal mandates tend to benefit the rich and hurt the poor because local taxes are more regressive than the Federal Graduated Income Tax.
- The authority to impose mandates should carry with it the responsibility to fund those mandates.
- Local and state governments are gradually becoming administrative agents of the Federal Government which is the very system so recently rejected in Eastern Europe and the former Soviet Union.

Mr. TOWNS. Thank you very much, Mr. Marshall. Mr. Gaydeski.

**STATEMENT OF JOHN R. GAYDESKI, BOROUGH MANAGER,
PORT ALLEGANY, PA**

Mr. GAYDESKI. Yes, sir. As the manager of a small and very rural borough, we are truly the tail of the dog. We are home to approximately 2,400 people, a very small municipality. Our tax base is steady with little growth. We have two industries in town which keep our economy stable. The cost of running the borough has, not surprisingly, increased steadily over the past several years. Considering increasing wages, sharp rises in workers compensation and health insurance, and the higher costs of equipment and supplies, that is hardly surprising.

However, legislation and rulemaking at both the State and Federal levels is now adding significantly to this upward trend. Unfunded mandates now generate significant expenditures for all small municipalities, and the situation only looks worse for the future. I would like to cite some examples. The U.S. EPA has been very active in rulemaking to control water and waste water quality. In 1989, they enacted the surface water treatment rule, the SWTR, elements of which have been phased in over the past several years.

An offshoot of this rule is a requirement to determine if a relationship exists between the quality of water and surface water bodies and nearby ground water sources. We get all of our water from wells in our towns. In Pennsylvania, the testing procedure for this is called the surface water identification protocol which is a very neat name. It is called SWIP. We are required to perform this testing. It takes 6 months, and if we do it ourselves, which is the cheapest way to do it, it will require the purchase of approximately \$2,500 worth of testing equipment and approximately \$7,600 in man hours. That is over \$10,000 of local money, and for a small municipality, that is quite substantial.

For 1993, we are already spending over \$300 a month just for routine testing of our water. The figure is up 29 percent from 1992, and we are scheduled to start testing for copper and lead, another SWTR requirement, before the end of the year. Neither Federal nor State agencies can even decide on what is an appropriate maximum contaminant level for copper. Yet, the testing for one cycle alone will cost us \$1,000. The testing requirements for volatile organic compounds, VOC's, in drinking water are growing and becoming more expensive. The list of VOC keeps getting longer, and, again, no one seems to know what levels are harmful or appropriate and the rulemaking goes on.

We serve about 1,000 water and sewer customers in my town. The mathematics is spreading these costs around. This is pretty easy to see. My borough recently constructed two new buildings, one to house our maintenance facilities and the other for our administrative offices and police station. This project was financed entirely with moneys saved by the borough for just that purpose.

However, the Pennsylvania Department of Labor and Industry under the Pennsylvania Prevailing Wage Act, which is very similar to the federally created Davis-Bacon Act, mandated that we pay predetermined prevailing wages and benefits to all workers involved in the project. Because we are in a rural area, even contrac-

tors who pay and employ union people pay nowhere near what they call the prevailing rates. The bottom line for us was that the cost of our project, which was approximately \$300,000, was increased. Of that amount, \$56,000 was directly the responsibility of this mandate. That was 19 percent of the price tag. The cost would have been significantly higher had we not been able to skirt some gray areas of the act.

Storm water management and flood protection are receiving increased attention now. My borough was recently informed by representatives from Pennsylvania DER that a flood protection project was being planned there. The project, although it is funded to the tune of \$5.5 million, will cost the borough approximately \$250,000 upfront plus an additional \$10,000 per year in maintenance costs.

All municipalities in Pennsylvania are required to have storm water management plans. The development of the plan can be quite costly especially if professional consultants are hired which is often necessary. As the requirements in this area become more extensive, storm water management will become another financial burden, and expensive storm water treatment plants may become common, and how we will pay for them?

Failure to comply with rules in this area can result in the withholding of all State fundings from the municipality including State subsidies for such things as waste water treatment and liquid fuels or road tax funds.

The full impact of the Americans with Disabilities Act has yet to be felt. Accessibility to all public places is certainly important, but the price can be out of proportion to the gains especially in rural areas where the number of handicapped persons requiring accommodations is typically quite small. Compliance with the ADA added approximately \$10,000 to the cost of our new buildings. Our local public library already strapped for operating revenues is searching for ways to make the entire building accessible. The local Rotary Club installed and paid for an access ramp to the rear of the building to provide a temporary access.

The Federal Emergency Management Agency, FEMA, directs such things as equipment required for EMS services and the number of technicians that even ride in the vehicles. This all equates to dollars for a small municipality.

This is just a brief summary of my experiences as the borough manager so far. I think without exception the mandates that we are faced with equate to a heavier burden for our taxpayers and our ratepayers. I certainly don't doubt the good intentions of the laws and the rulemakings, but as we are the tail of the dog, we are the ones that get wagged quite heavily. On behalf of the people of Port Allegany, I would like to thank you for inviting me today and allowing me the opportunity to speak. Thank you.

[The prepared statement of Mr. Gaydeski follows:]

**TESTIMONY OF JOHN R. GAYDESKI
BEFORE THE SUBCOMMITTEE ON HUMAN RESOURCES AND
INTERGOVERNMENTAL RELATIONS
on the
IMPACT OF FEDERAL MANDATES ON STATES AND LOCAL
GOVERNMENTS**

October 25, 1993

As the Manager, Treasurer, Water Company supervisor, Sewer Company supervisor, Municipal Engineer, and general Jack-of-all-trades of a small, rural municipality, I am intimately involved with the business of my town. Obviously, one of my chief responsibilities is to ensure that our taxpayers' and ratepayers' limited dollars are being used as wisely as possible. As all of you here today well know, there are many forces that drive the cost of doing business inexorably upward. Some of those factors are difficult if not impossible to control. It is therefore vital to control the ones we can. I believe unfunded mandates fall into this latter group.

Port Allegany Borough is home to approximately 2400 people. Our tax base is steady, with little growth, due mainly to our rural location. Two glass manufacturing plants have provided a steady job base for many years. A high percentage of our population is over age 65, many of those people retired and living on fixed incomes. We operate our own water and sewer companies. In addition to the Borough Manager, the Borough employs a Borough Secretary, Clerk, three full time police officers, and seven workers who are responsible to run and maintain the water and sewer operations as well as the streets department. Our total annual operating budget for all funds is approximately one million dollars. Due largely to conservative management practices and a steady local economy, the borough has generally enjoyed good financial health.

The cost of running my Borough has increased steadily over the years, which is not surprising, considering increasing wages, sharp rises in worker's compensation and health insurance, and the higher cost of equipment and supplies. But legislation and rule making at both the state and federal levels is now also adding significantly to this upward trend. Unfunded mandates now generate significant expenditures for small municipalities, and the situation only looks worse for the future. Let me cite some examples from my own experience.

The United States Environmental Protection Agency has been very active in rule making to control water and waste water quality. In 1989 they enacted the Surface Water Treatment Rule (SWTR), elements of which have been phased in over the past several years. An offshoot of this rule is a requirement to determine if a relationship exists between the quality of water in surface water bodies and nearby ground water sources. In Pennsylvania the testing procedure for this is called the Surface Water Identification Protocol (SWIP). We are required to perform this testing. It takes six months, and, if we do it ourselves, it will require the purchase of \$2,500.00 worth of testing equipment. Man hours will cost an additional \$7,600.00. That's over \$10,000.00 of borough money to

collect information to help build a state and national water management data base. For 1993 we are already spending over \$300.00 a month just for "routine" testing of our water and wastewater. This figure is up 29% from 1992. We are scheduled to start testing for copper and lead, another SWTR requirement, before the end of this year. Neither the federal nor state agencies can decide on an appropriate Maximum Contaminant Level (MCL) for copper. Yet the testing for one cycle alone will cost about \$1,000.00. The testing requirements for Volatile Organic Compounds (VOC's) in drinking water are growing and becoming more expensive. The list of VOC's keeps getting longer, and again, no one seems to know what levels are harmful or appropriate. And the rule making goes on. We serve about 1000 water and sewer customers in my town. The mathematics of spreading these costs is pretty easy to see.

My borough recently constructed two new buildings - one to house our maintenance facilities, and the other for our administrative offices and police station. The project was financed entirely with moneys saved by the borough for that purpose. In spite of that, the Pennsylvania Department of Labor and Industry determined that we were required by the Pennsylvania Prevailing Wage Rate Act - which is similar to the federally created Davis-Bacon Act - to pay predetermined "prevailing" wages and benefits to all workers involved in the project. The Act was designed in part to guarantee workers a fair wage and to create a competitively level playing field for prospective bidders on a project. However, neither the Prevailing Wage Act nor the Davis-Bacon Act, adequately consider the economics of rural areas and small towns. The Davis-Bacon Act applies whenever federal funds are used on any part of a project. The Prevailing Wage Act applies whenever state or "public" funds are involved, and the project cost is over \$25,000.00, a small figure for any significant project. In both cases, the result is excessive additional expense for the small municipality, and in many cases, for the state and federal government as well. The cost of our building projects was approximately \$300,000.00. Compliance with the act cost my borough \$56,000.00 - 19% of the price tag! The cost would have been significantly higher had we not been able to skirt some gray areas of the act. Our heating contractor, a public utility company, employed union people, and had to pay them in some cases more than 80% over their usual wages. These acts should not apply to rural municipalities. They discourage substantial capital improvements, and waste scarce dollars.

Stormwater management and flood protection are receiving increased attention now. My borough was recently informed by representatives from the Pennsylvania Department of Environmental Resources (DER) that a flood protection project was planned here. The project was the result of a study completed in 1977. Although state funds have been set aside for construction, the project may cost the borough as much as \$250,000.00 to complete plus an additional \$10,000.00 per year in maintenance costs.

All municipalities in Pennsylvania are required have a Stormwater Management Plan. Development of this plan can be quite costly, especially if professional consultants are hired, which is often necessary. As requirements in this area become more extensive, stormwater management will become another financial burden on small communities. Expensive stormwater treatment plants may become common. How will we pay for them? Failure to comply with rules in this area can result in the withholding of all state fundings

from the municipality. State subsidies for such things waste water treatment and street maintenance are relied on very heavily by small communities.

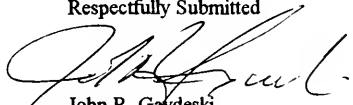
The full impact of the Americans with Disabilities Act (ADA) has yet to be felt. Accessibility to all public places is certainly important, but the price can be out of proportion to the gains - especially in rural areas where the number of handicapped persons requiring accommodations is typically quite small. Compliance with the ADA added significantly to the cost of our new buildings. Our public library, already strapped for operating revenues, is searching for ways to make the entire building accessible. A volunteer group, funded by the local Rotary club, installed ramped access to the main part of the building. The lower of the two stories is still not accessible by ADA standards. The library board has explored other options such as installation of an elevator or chair lift. Needless to say, these are very expensive solutions. Local merchants, many operating on a thin margin, are also struggling with the problem of compliance with the ADA.

The Federal Emergency Management Agency (FEMA) has a direct impact on the way in which local Emergency Medical Services (EMS) are provided. Here again the financial impact of mandates is readily felt. FEMA directs everything from the type of equipment required for EMS units to the number of Emergency Medical Technicians that must ride in a vehicle. This all equates to dollars, and the dollars come out of the pockets of local governments and agencies.

This is just a brief summary of my experiences as a Borough Manager dealing with the effects of unfunded mandates. Although the mandates are enforced at the state level, virtually all of them are born in federal legislation and rule making. With a few exceptions, I trust the good intentions of these rules and laws. Without exception, these mandates translate into a heavier burden for the citizens of my town.

On behalf of the people of Port Allegany Borough, thank you for inviting me here today. We appreciate the opportunity to be heard, and we trust you will do your best to lighten the financial load created by unfunded mandates.

Respectfully Submitted



John R. Gaydeski
Borough Manager
Port Allegany, PA

Mr. TOWNS. Let me thank both of you for your testimony, and at this time, I would like to yield to Congressman Clinger.

Mr. CLINGER. Mr. Chairman, thank you, and, gentlemen, thank you both for coming this morning to share your tales of woe, I guess, with us. Peter, you, of course, represent the largest community in my congressional district, and, John, you represent one of the smallest in my congressional district so we are getting—actually no community in my district could really be called a major urban complex so that we are really talking about rural communities and the problems that unfunded mandates impose on rural communities and the wherewithal to do that.

I think one of the interesting points that you make, Peter, is the fact that we have very artfully transferred responsibility from Federal taxes to local governments which are being required to impose those mandates using regressive taxes on real estate and so forth. So we really change not only the source of the funding for mandates but the fairness of it. We are asking local people on a rather aggressive basis to bear the burden for a Federal requirement. In other words, we are shirking our responsibility at your expense.

But some have said that the problem with many unfunded Federal mandates is not so much their cost but, again, the lack of flexibility, imposing a rigid procedure for compliance. Is that consistent with your experience?

Mr. MARSHALL. Oh, it is. The interesting thing we are going through right now with ADA, we are, of course, trying to comply as quickly as possible and have been fairly successful, but kind of at the last minute, we find out that no one is sure what actual standards are going to be enforced. We were told in the beginning, and I can't quote the acronym, but we were told in the beginning that there was a certain standard that was going to be used, and recently we were told that the Justice Department is going to enforce on another standard. So we are communicating with the Justice Department to find out what it is they are going to use to enforce so that what we have done will comply. That may not be exactly on point, but that is the kind of detail that we are running into that we didn't even expect. Yes, they are very rigid.

Mr. CLINGER. And you are right. The unpredictability of what is going to be imposed on you from 1 year to the next, you can't really prepare for it until suddenly you are faced with new regulations, new requirements, new costs.

Mr. MARSHALL. And another thing that was mentioned before which we run into, the State, being the enforcement agency for Federal mandates, they get very restrictive, and they don't want to have whatever penalties come to the State if they are not in compliance. So they really lay it on. They are not always current. I mean, things change at the Federal level. The State has to respond. It doesn't always happen so we have many examples where there are things being imposed—mandates being imposed and restrictions being put on by the State government which have been relaxed by the Federal Government, and it is not—

Mr. CLINGER. You are being whipsawed.

Mr. MARSHALL. It is not easy.

Mr. CLINGER. State College is not only the largest but probably one of the more affluent communities. In other words, your base is pretty healthy in terms of—

Mr. MARSHALL. We could discuss that.

Mr. CLINGER. We could discuss it. But, you know, Port Allegany—we have a different situation, and one of the things that strikes me is that we really are putting at risk, in my view, the very survival of some communities. I mean, if it gets to the point where the local people are required to bear this burden and with everincreasing property taxes or State or local income taxes or whatever, that, I think, is going to have the effect or would you agree it might have the effect of driving people out of those communities and ultimately maybe bringing to its knees the very ability of the community to survive?

Mr. GAYDESKI. Yes, sir. That is quite possible. Even more importantly, the two large industries we have in Port Allegany, both glass manufacturing plants, were located there because of—originally many years ago because of their proximity to the resources, sand mainly, good transportation. They now find themselves virtually in the middle of nowhere in a very competitive atmosphere where every penny counts. Just getting their goods to market from where we are gets expensive. Add to that the mandates.

Pittsburgh Corning Corp. has a plant in Port Allegany—are constantly at odds with DER for disposal of some of their more hazardous or what have been deemed hazardous wastes or industrial wastes. The cost of doing business is getting more and more expensive. The Ballincon Corp., who make glass jars and bottles—if you have ever done any canning, you know what I am talking about—have a very, very small margin of profit, and it is mainly due to getting their goods to market from where we are. All these extra burdens could very conceivably put those plants under which would devastate the community. It would disappear. But all these mandates add up to the same thing.

Mr. CLINGER. Yes. I think we have to be aware that we are not just talking about some sort of esoteric government problem. We are talking about survival in many cases, and if this thing gets much worse, it could be very harmful to rural communities.

Mr. GAYDESKI. Consider please that there are almost 1,000 boroughs of various sizes, obviously, in Pennsylvania that account for directly about 3 million of Pennsylvania's population, not including the bordering townships and areas they serve. Spread this problem out among all those boroughs, and this could be very serious for the State.

Mr. CLINGER. Thank you both for a very compelling testimony.

Mr. TOWNS. Thank you very much, Congressman Clinger. At this time, I would call on Congressman Mica.

Mr. MICA. Thank you, Mr. Chairman. I notice from both of your local government testimonies, Mr. Marshall, and it is Mr.—

Mr. GAYDESKI. Gaydeski.

Mr. MICA [continuing]. Gaydeski—I am sorry—you point to one of the villains as EPA, Environmental Protection Agency, and I guess also very specific references to the costs of determining what the contaminant levels are now seems to be a problem. Before the Congress is the Johnson amendment which was proposed over in

the Senate side to the EPA elevation legislation which requires a cost benefit analysis and sort of a prioritization of some of the EPA activities. Do you think that something like this would benefit you all? What would be your counsel to these Members of Congress gathered here on legislation of that sort?

Mr. MARSHALL. Well, I think it would be beneficial, and reflecting on the question that was asked to the gentleman from the State legislature, it should go beyond the impacts on States. I think anytime that you have to spend time looking at the fiscal impact of a decision, it has got to be helpful. And if that information is distributed to the local communities and the States and the counties, that, of course, gives them prior information that normally they don't have, and that would be helpful because I am sure that would create feedback to Congress.

Mr. MICA. Well, it has got to be frustrating when we can't decide what the standards are to impose costs on you for compliance.

Mr. GAYDESKI. Yes, sir. Every year more and more VOC compounds that they are looking for are included in the testing. The testing for these items is very expensive, very rigid. It requires very exacting laboratory testing parameters. It is frustrating when they can't even decide on what is an appropriate level. Why are we spending thousands of dollars when they are not even sure it is worth looking for and in what amount? I will never argue with the efficacy of the appropriateness of testing for safe drinking water in a historically industrialized state because virtually all sources have become contaminated to some degree. But a cost-benefit analysis, to get back to your original statement, would certainly be in order with small communities in mind.

Mr. MICA. I guess was it Mr. Marshall that said that it is unfair to the poor. It is just in the last week or so in my office I had some folks from small business, and they had a well in the back of their business which has been operating for 15 years. And EPA came in and asked the State and local municipalities to conduct water quality testing, and the bill that this one business received was equal to what your borough received as a bill. So it is not just expensive for the rich, it is expensive for the small business, and not just expensive for poor, and then the lost productivity when you look at what you have to do. And what they imposed on them as a requirement accomplished absolutely nothing, as your testimony points out here, so it is all a paperwork processing procedure. Is that the case, or are they really achieving something here meaningful?

Mr. MARSHALL. Well, it is hard to say. I don't think the science is complete. Some of the risks that are looked at I don't think anyone can really say how much risk things are that we are trying to correct, and it would be nice to get the science improved before we require everybody to make the changes. I don't know how you do that. I can't place myself where EPA is. All I know from our point of view is that it is extremely expensive. People are at risk. Communities are at risk, and businesses are at risk. And that is true.

Mr. MICA. Probably more financially than healthwise.

Mr. MARSHALL. Financially is what I was speaking of.

Mr. MICA. Thank you, gentlemen. Mr. Chairman, I yield back.

Mr. TOWNS. Let me thank you too, but let me also just say that I really appreciate your coming to share with us, and I think that

there is a common theme that I keep hearing as we listen to the witnesses. It seems to me that you are saying that in order to solve the problem of Federal mandates, it comes down to basically three things: More money if you are going to do it, providing State and local government with more flexibility to appropriately allocate resources, and getting better information about the effects of Federal legislation and regulations on State and local government. I think you agree with that?

Mr. MARSHALL. Yes.

Mr. GAYDESKI. That is a pretty accurate summary, Mr. Chairman.

Mr. TOWNS. So thank you very much for your testimony.

Mr. MARSHALL. Thank you.

Mr. GAYDESKI. Thank you.

Mr. GOODLING. I apologize, Mr. Chairman, for Mayor Althaus not being here. I wanted you to hear some testimony from a city of 49,000 who has had a lot of experience in unfunded mandates, and he was also the past president of the U.S. Conference of Mayors, but something must have happened with our communication or something.

Mr. TOWNS. Right. I was looking forward to hearing from him because I know he is an outstanding witness. I have had an opportunity to hear him, and anytime he comes before you, you can be assured that there will be some information there that we all can use so I regret that he was not able to attend. Our next panel, Larry Kephart, Walter Schafer, Lou Inzana, and Richard Waybright. So being your name is misspelled, Mr. Schafer, why don't we start with you.

STATEMENT OF WALTER L. SCHAFER, COMMISSIONER, VENANGO COUNTY, PA

Mr. SCHAFER. Thank you, Mr. Towns. I want to thank you for this opportunity to present our concerns to the Subcommittee of Human Resources and Intergovernmental Relations. My name is Walter Schafer, and I am chairman of the Venango County Board of Commissioners.

First, I would like to introduce the panel to Venango County, PA. We are a rural county in northwest Pennsylvania with a total population of 59,400. Of this population, 15,400, which represents 26 percent, are under the age of 18 years, 8,900 or 15 percent are over 65 years of age, and 4,900 or 8 percent are unemployed which leaves us a grand total of 49 percent of our total population supporting the tax base that we must operate under. Our sources of revenue in Venango County are extremely restricted by this population mix.

The needs of a rural county such as Venango County are not the same as those of an urban county. Those imposing unfunded mandates in many cases, whether directly or through State government, are not familiar with the specific needs or conditions within Venango County. A few examples I would like to speak directly to: Our drug and alcohol program has experienced a 3½ percent decrease in funding in each of the past two fiscal years.

During this same period of time, we have been mandated to provide child care services and treatment facilities servicing women

with children with no additional funding. We have been mandated to provide tuberculosis services to those receiving treatment, and, again, no additional funding. We are mandated to provide trained staff for treatments of pregnant women receiving treatment. Again, no additional funding. We are mandated to establish a drug-free workplace awareness program for industry with no additional funding.

These items that I have addressed here are specifically under our drug and alcohol program under the human services program that we offer.

Some of the additional unfunded Federal mandates which have direct costs inherent in the process of implementation, and some of these have been covered by previous testimony, the Fair Labor Standards Act, COBRA, Americans with Disabilities Act, the Civil Rights Act, the Family and Medical Leave Act, and now our concern addresses the national health care program that is approaching, whether it be from the Federal Government or from the State government.

We in rural Pennsylvania, at least speaking for Venango County, are not seeking additional funding. What we are asking for is that we be allowed to allocate the funds afforded us to the programs which are of most benefit to our residents without the restrictions required in other areas of our State and/or country. We feel that since we are elected as county commissioners by those residents within our county, which is a very restricted area, they have elected us depending upon us to serve them in their most pressing needs.

One specific example of restrictions or inflexibility, if you would, from a personal standpoint, I retired in 1991 from industry. The last year I was actively involved in the company we built a new facility. I was chairman of the board and CEO of the firm, and I started 2 years before we wanted to get into actual construction. I asked the question what tests do we have to make of the land that we are proposing to purchase?

We purchased 13 acres of farmland that had not been tilled for 25 years. I was told the only test that I had to perform to satisfy both EPA and DER was a phase one environmental test, which I did. Then within the next month, I was informed that I had to perform four additional tests, one by the Archaeological Society, one by the Wild Game Preserve Facility, and another of prime farmland testing.

Now, what this meant to a small company, an independent company, was the fact that we were delayed 10 months before we could turn one shovel of dirt and a cost of over \$25,000 to perform these tests. And with the economic conditions in a rural county such as Venango, this created an extremely difficult situation to overcome, and it prevented us from doing the work that we set out to do. Was the effort worthwhile? Yes. The company that I chaired when I left the company in 1991 had 98 employees and today has 137 and has doubled their volume of business, which in a rural county such as Venango, is a rarity.

Again, I want to thank you for this opportunity to present rural Pennsylvania's approach to unfunded mandates. Thank you.

[The prepared statement of Mr. Schafer follows:]

Post Graduate Study - Rochester Institute of Technology - no degree

Thank you for this opportunity to present these concerns to the Subcommittee on Human Resources and Intergovernmental Relations.

I would like first to introduce you to Venango County, Pennsylvania. We are a rural county in northwest Pennsylvania with a total population of 59,400. Of this population, 15,400 (26%) are under 18 years of age, 8,900 (15%) are over 65 years of age and 4,900 (8%) are unemployed. Our sources of revenue are restricted by this population mix.

The needs of a rural county, such as Venango County, are not the same as those of more urban counties. Those imposing unfunded mandates, whether directly or through the State government, are not familiar with our specific needs or conditions.

A few examples:

Our Drug and Alcohol Program has experienced a 3 1/2% decrease in funding in each of the past two fiscal years. During this same period, we have been mandated to provide child care services in treatment facilities serving women with children - no extra funding. We are mandated to provide tuberculosis services to those receiving treatment - No extra funding. We are mandated to provide trained staff for treatments of pregnant women receiving treatment - No extra funding. We are mandated to establish a Drug-Free Workplace Awareness Program for industry - No extra funding.

Some additional unfunded Federal mandates which have direct costs inherent in the process of implementation are:

- Fair Labor Standards Act
- COBRA
- Americans with Disabilities Act
- Civil Rights Act
- Family and Medical Leave Act

We in rural Pennsylvania are not seeking additional funding. We do ask that we be allowed to allocate the funds afforded us to the programs which most benefit our residents without the restrictions required in other areas of our state or county. We are elected by those residents in our county who depend on us to serve their most pressing needs.

Again, I thank you for this opportunity.

Mr. TOWNS. Thank you very much, Mr. Schafer. Mr. Kephart.

STATEMENT OF LARRY KEPHART, COMMISSIONER, CLINTON COUNTY, PA

Mr. KEPHART. Thank you, Mr. Chairman. I am a county commissioner in the county of Clinton, PA, a county of 38,000 people. I have been elected to a 4-year term of office. I have had both of my hands tied behind my back the day I took office when it comes to fiscally managing the affairs of my county. The reason is that in excess of 80 percent of my county's budget is either federally or State mandated, and with those mandates comes very little money. I know of no other branch of government from the Federal down to the local township that has that obstacle when trying to operate the everyday business of government.

Most of the county budget is in human services, and I firmly believe that the county level is the best level to administer all of the services that we do. We know and have a feel for our local constituents' needs, and those needs vary from county to county. In the State of Pennsylvania, we rely on real estate tax to operate all of these services. In our county, which has a high elderly population, it is extremely hard to continue to raise the taxes to perform services that are mandated and either underfunded or unfunded.

In 1986 in my first term as a county commissioner, we renovated our courthouse to add an elevator and comply with all the rules and regulations to make our courthouse handicapped accessible. Now, under the new Federal ADA regulations, it will require \$125,000 to again bring our buildings under the compliance for the handicapped accessibility. You have mandated we do this. You have sent no money down to help do this. There is where the problem lies.

The new Federal motor voter bill is another excellent example of a federally unfunded mandate. To this point, counties have no idea what it is going to cost to change everything that we have established in voter registration to comply with the new mandate.

Let me give you a few examples of Federal funding that we receive for our human services. For Children and Youth, we receive title IV-E, and our current reimbursement for all the eligible out-of-home placement cost is at a rate of 54.61 percent. We also receive Federal title XX funding for Children and Youth Agency costs which is a minimal amount of \$32,592. That represents about 5 percent of the budget for Children and Youth Services and does not even include foster home maintenance or any of the other services offered to Children and Youth.

The reimbursement for salary and overhead costs associated with the child support mission is at a rate of 60 percent, and in our mental health department between the Federal statute PL-99457-Part H, and subsequently the enacted Commonwealth statute 212 regarding early intervention services, the counties are now mandated to have early intervention services for children of ages zero to 5 years.

This, at present, is being funded by the State through Federal moneys. In the future, if the Federal or State government decides that they want to reduce their contribution or the numbers grow of the eligible recipients, the counties will then have to pay what-

ever percentage it is to continue the service because it is now mandated by the Federal Government. This is commonly called a county overmatch.

These are just a few of the examples of the problems that counties have with funding. Imagine now, the counties in the State of Pennsylvania must adopt a budget in December which controls their spending from January through December of the following year. The State government's fiscal year starts July 1, the Federal Government's September 1. Halfway into the county year, if the State and/or the Federal Government decides that they will not fund one of the mandated services, they simply say, "Counties, you are not getting the money this year." We then have to make up the difference out of our own tax dollars, and if one of those mandates were large enough, it could fiscally ruin a county. Counties in the State of Pennsylvania are mandated to have a balanced budget at the end of the year.

I feel that the counties are the very best place to operate and manage the services that we do for the local people. The problem lies in funding of the mandated services. Our people can no longer afford to support federally or State mandated services. Another problem lies in the fact that if the county would refuse to do one of the mandated services, you then could pull all the funding away from the county, and that would leave the county with absolutely nothing.

County commissioners enjoy their work and try to make sure everything is done as cost effectively as humanly possible. We ask only that the Federal Government and the State government look at how we operate and what we operate and have some feeling before they mandate a service. If they are going to mandate that service, they then have to send down the money from the wider tax base than just the real estate tax. I appreciate your allowing me to testify this morning. I would be happy to answer any questions when the time comes. Thank you.

[The prepared statement of Mr. Kephart follows:]

CLINTON COUNTY

Robert C. Ohl, Chairman
 Larry Kephart, Vice Chairman
 Miles D. Kessinger



Linda K. Bickford
 Chief Clerk
 Lewis G. Steinberg
 Solicitor

COMMISSIONERS

October 25, 1993

TESTIMONY ON UNFUNDED FEDERAL MANDATES

Larry Kephart, County Commissioner,
 County of Clinton, State of Pennsylvania

Good Morning. My name is Larry Kephart. I am a County Commissioner in the County of Clinton in Pennsylvania. I represent County Commissioners in the State of Pennsylvania and probably across the nation who have been elected to a four year term of office and have had both hands tied behind my back the day I took office when it comes to fiscally managing the affairs of my county. The reason for that is that in excess of 80% of my county's budget is either federally or state mandated, and with those mandates comes very little money. I know of no other branch of government from the federal down to the local township that has that obstacle in it's path when trying to operate the everyday business of government. In our small county, counting all of the budgets of all of the programs that our county operates, we are responsible for approximately 70 million dollars worth of day to day business. Most of that is in human services which include prisons, civil and criminal record keeping, children and youth services, mental health services, drug and alcohol, nursing homes, solid waste planning, environmental protection through conservation, domestic relations, probation, and several other services that are mandated by the governments on counties.

Please do not misunderstand me. I firmly believe that the county level is the best level to administer all of the services that we do. We know and have a feel for our local constituents needs, and those needs vary from county to county. So, counties are the best place to operate those services. However, in the State of Pennsylvania we rely on a real estate tax to operate all of these services. In our county which has a high elderly population, it is extremely hard to continue to raise taxes to perform services that are mandated and under funded.

In 1986 in my first year as County Commissioner we renovated our Courthouse to add an elevator to comply with all rules and regulations to make our courthouse handicapped accessible. Now, under the new Federal ADA regulations we spent \$8,000 to pay a consultant to do an assessment of all of our county buildings, and it will require under the new regulations \$124,730 dollars to again bring all of our buildings into compliance to be handicapped accessible. I do not have a problem with making them all handicapped accessible, but you have mandated we do this, and you have sent no money down to help us do this. There is where the problem lies.

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COURTHOUSE, LOCK HAVEN, PENNSYLVANIA 17745
 CLINTON COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER

The new Federal Motor Voter Bill is another excellent example of a federally unfunded mandate. To this point counties have no idea what it is going to cost to change everything that we have established in Voters Registration to comply with the new mandate and again, we have seen no reference to any monies that will flow down to the counties to establish the new system.

Let me give you a few examples of federal funding that we receive for our human services. For Children & Youth we receive Title IV-E, and our current reimbursement for all eligible out of home placement cost is at a rate of 54.61%. We also receive Federal Title XX funding for Children & Youth Agency costs which is a minimal amount of \$32,592. That represents about 5% of the budget for Children & Youth Services, and does not even include foster home maintenance or any of the other services offered to Children & Youth. The reimbursement for salary and overhead costs associated with the child support mission is at a rate of 66%, and in our Mental Health department between the Federal Statute PL-99457-Part H, and subsequently the enacted Commonwealth Statute 212 regarding Early Intervention Services. The counties are now mandated to have Early Intervention Services for children of age 0 to five years old. This, at present, is an entitlement in the State of Pennsylvania under Act 212, and is being funded by the State through Federal monies. At present it is not costing our county any of our own tax dollars. In the future if the federal government decides that they want to reduce their contribution and/or the state government decides they want to reduce their contribution or the numbers grow of eligible recipients, the counties will then have to pay whatever percentage it is to continue this service because it is now mandated by the federal government.

These are just a few of the examples of the problems that counties have with funding. Imagine now, the counties now in the State of Pennsylvania must adopt a budget in December which controls their spending from January through December of the following year. The state government's fiscal year starts July 1st. The federal government's fiscal year starts September 1st. Halfway into our county year, if the state and/or the federal government decides that they will not fund one of the mandated services that they have imposed upon the counties, they simply say "Counties, you are not getting the money this year". What are we supposed to do? We then have to make up the difference out of our own tax dollars, and if one of these mandates were large enough it could fiscally ruin a county. Counties in the State of Pennsylvania are mandated to have a balanced budget at the end of the year.

Please let me reiterate my earlier comment. I feel that counties are the very best place to operate and manage the services that we do for the local people that we serve. The problem lies in the funding of all of the mandated services which makes up in excess of 80% of our budget. We can no longer insist that the real estate owners bear this burden. It is becoming excessive, and the people, at least in our county, can no longer afford to support federally mandated services and/or state mandated services. Another problem lies in the fact that if the county would refuse to do one of either the federal or state

mandated services, then either one could pull all of the funding away from the county, and that would leave the county with absolutely nothing.

County Commissioners enjoy their work and try to make sure everything is done as cost effective as humanly possible. We ask only that the Federal Government and the State Government look at how we operate and what we operate and have some feeling before they mandate a service and then if they are going to mandate the service, they have got to send down the money from the wider tax base than just the real estate tax. I appreciate your allowing me to testify this morning. I will be happy to answer any questions you may have. Thank you.

Mr. TOWNS. Thank you very much, Mr. Kephart. At this time, I would like to call on Lou Inzana.

STATEMENT OF LOU INZANA, COMMISSIONER, JEFFERSON COUNTY, PA

Mr. INZANA. Thank you. I am pleased to have been invited to appear as a witness at your hearing on the impact of Federal mandates on State and local governments. It is a pleasure to represent county commissioners from rural Pennsylvania, and with the testimony I am about to give, I am sure it is shared by local governments in one way or another throughout this great Commonwealth.

County commissioners of Pennsylvania, like the State in many ways, receive funding from the Federal Government as pass-through dollars. However, unlike the State, when funding is not available, funding must now come from the general budget of the county. So although we are not always directly affected by unfunded dollars, we are certainly always affected indirectly. If the funds cannot be made available through general budget, taxes must be raised to support the mandated program. This, of course, creates ill feelings between the government official and the grass-roots people. I am sure none of you wish to be in this position, nor does the same government official who has no say in the mandated program.

We in county government have a finite amount of money, and we have to provide a certain amount of basic services no one else provides. If a decision at the national level is made by Congress and signed by the President, then they should respond and send us the dollars to implement the programs. We are not questioning the decisions being made. What we are trying to say is that when Washington, whether it is a transportation, health care, human service, prison, or environmentally related issue, requires local governments to do something within a specific timeframe, then they have got to send us the funds to implement the requirements. Most often, these mandates are well-intended national policy goals. Our aim is not to oppose these goals but rather to stop the Federal Government from dumping the full costs of implementing these mandates on local governments.

We all agree that clean air, safe drinking water, fair wages, and protecting endangered species are commendable national priorities that should be carried out. However, the Federal Government must be willing to pay to support the programs. It is time the American public understands the pressures that are occurring at the local level and understands what the Federal Government is doing to every taxpayer in this country. In short, the Federal Government is using our property taxes—in most cases, our only means of revenue—as its credit card, and we, the commissioners, get stuck with the bill. We have no choice but to pass the costs on to our constituents.

Federal mandates are a problem for three reasons: They are imposed without consideration of local circumstances or capacity to implement the Federal requirements; they strain already tight budgets; and, three, they set priorities for local governments without local input.

During the last decade, we have witnessed a significant increase in the number of unfunded mandates while Federal funds have dwindled from 27 percent of State and local expenditures in 1978 to 16 percent in the current fiscal year. Each time a new mandate is enacted, local officials are forced to raise taxes or reduce services. With many counties facing limits on property taxes, it often results in a reduction of services. The public must understand that every \$1 that is spent on a unfunded mandate is \$1 less that can be used to fight crime and drug abuse, improve education, provide health services, expand public housing, increase access to welfare, and enhance most transportation services.

Between 1991 and 1992, the Federal Government enacted 15 new unfunded mandates. In the first 6 months of this year, several new mandates have been approved and many more are still pending. If the trend toward unfunded mandates should continue, it would gradually limit the resources of local governments and turn them into administrators of national policy. Should this happen, education, public safety, public health and other local priorities will suffer.

With all that has been said by my colleagues, I am sure, Mr. Chairman, I have given to you and the panel some areas of testimony where Federal unfunded mandates have created problems for Jefferson County, PA, in the areas such as job training, emergency management, area transportation, Agency on Aging, and, of course, Children and Youth issues.

Mr. Chairman, as a trustee of public funds and the implementor of public policy, unfunded Federal mandates serve to undermine the confidence of government necessary to implement positive change in our society. Moreover, Mr. Chairman, unfunded Federal mandates will most likely increase Federal outlays or requiring individuals to remain on Federal entitlement programs rather than earning their way off of the need for public support funds.

I would like to take this opportunity, Mr. Chairman, to thank you for the opportunity to address this issue. I would be most happy to take any questions you may have at this time or afterwards. Thank you.

[The prepared statement of Mr. Inzana follows:]

Honorable Edolphus Towns, Chairman
 Subcommittee on Human Resources and
 Intergovernmental Relations
 Room B372 Rayburn House Office Bldg.
 Washington, D. C. 20515

Dear Mr. Chairman:

I am pleased to have been invited to appear as a witness at your hearing on the "Impact of Federal Mandates on State and Local Governments." It is a pleasure to represent County Commissioners from rural Pennsylvania and with the testimony I am about to give I am sure is shared by local governments in one way or another throughout this great Commonwealth.

The County Commissioners of Pennsylvania like the State in many ways receive funding from the Federal government as pass-through dollars. However, unlike the State when funding is not available funding must now come from the general budget of the County. So although we are not always directly affected by unfunded dollars we are certainly always affected indirectly. If the funds cannot be made available through general budget taxes must be raised to support the mandated program. This of course creates ill feelings between the government official and the grass roots people. I am sure none of you wish to be in this position nor does the same government official who has NO say in the mandated program. We in county government have a finite amount of money, and we have to provide a certain amount of basic services that no one else provides. If a decision at the national level is made by Congress and signed by the President, then they should respond and send us the dollars to implement the programs. We are not questioning the decisions being made. What we are trying to say is that when Washington (whether it's a transportation, health care, human service, prison or environmentally related issue) requires local governments to do something within a specific time frame, then they've got to send us the funds to implement the requirements. Most often, these mandates are well-intended national policy goals. Our aim is not to oppose these goals, but rather to stop the federal government from dumping the full cost of implementing these mandates on local governments. We all agree that clean air, safe drinking water, fair wages and protecting endangered species are commendable national priorities that should be carried out. However, the federal government must be willing to pay to support the programs. It is time the American public understands the pressures that are occurring at the local level and understands what the federal government is doing to every taxpayer in this country. In short, the federal government is using our property taxes (in most cases our only means of revenue) as its credit card and we the Commissioners get stuck with the bill who have no choice but to pass the costs on to their constituents.

Federal mandates are a problem for three reasons: (1) they are imposed without consideration of local circumstances or capacity to implement the federal requirements; (2) they strain already tight budgets; and (3) they set priorities for local governments without local input. During the last decade, we have witnessed a significant increase in the number of unfunded mandates while federal funds have dwindled from 27% of state and local expenditures in 1978 to 16% in the current fiscal year. Each time a new mandate is enacted, local officials are forced to raise taxes or reduce services. With many counties facing limits on property taxes, it often results in a reduction of services. The public must understand that every dollar that is spent on an unfunded mandate is one dollar less that can be used to fight crime and drug abuse, improve education, provide health services, expand public housing, increase access to welfare, and enhance most transportation services.

Between 1991 and 1992, the federal government enacted 15 new unfunded mandates. In the first six months of this year, several new mandates have been approved and many more are still pending. If the trend toward unfunded mandates should continue, it will gradually limit the resources of local governments and turn them into administrators of national policy. Should this happen, education, public safety, public health and other local priorities will suffer.

Interjection of this testimony has been taken from NACo's (National Association of County Commissioners) Annual Conference held in Chicago this past July 1993, where at that time President Clinton told delegates that his Administration would not load additional unfunded mandates on state and local government. We appreciate the President's support and endorse Senator Dick Kempthorne's (R-Idaho) proposed legislation that says if there is going to be a mandate sent down to us by Washington, there has to be funds to implement the mandate. Therefore, we believe that if you're going to pass something down to the locals, send us the money to implement the mandate, or don't pass the legislation.

With all that has been said Mr. Chairman, let me give you some areas and testimony where federal unfunded mandates have created problems for Jefferson County Pennsylvania, such as:

Job Training: Mr. Chairman, as you are aware, the Job Training Partnership Act (JTPA) and the Job Opportunities and Basic Skills Act (JOBS) are the major federal job training and welfare training legislation regarding federal job training policy. These federal initiatives are successful in our area in retraining our disadvantaged and dislocated constituents and helping them become productive citizens, becoming responsible taxpayers, and improve the quality of life in our communities. However, the impact of unfunded federal mandates on these programs results in reducing the effective-

ness of these initiatives while in some cases jeopardizes the success of current initiatives. I will site a few direct examples that will illustrate my point. These examples involve local school districts, retraining initiatives with our long term welfare dependent single parents, and proposed retraining policy from the U.S. Department of Labor. In each case, unfunded federal mandates or the potential for unfunded federal mandates result in greater pressure on local county tax base to provide these services.

Recent Congressional changes in the Job Training Partnership Act require significant and direct coordination between our Job Training Service Delivery Area and local School Districts. These changes involve assessment of at risk and disadvantaged youth in both a locally developed Alternative Education programs as well as the popular Summer Youth Employment and Training Program. Local Educational Agencies and School Districts have responded by being either reluctant or simply refusing to cooperate because of the fear that this public policy is an unfunded federal mandate that School Districts must absorb at a later date. In this case, the potential exists for thousands of at risk and disadvantaged youth will be denied opportunity because of the fear of an unfunded federal mandate. In a related matter, current pending School to Work legislation before Congress by the Administration provides for unfunded federal mandates by providing for seed money to develop school to work standards while not providing long term funds to meet the need. The result is that the evidence that unfunded federal mandates inhibit innovation and creative cooperative problem solving necessary to address our counties complex problems. Once again, the intent of Congress cannot be met.

In another example of unfunded federal mandate, the current Job Opportunities and Basic Skills legislation, requires that funds better spent to serve single parents who have chronic welfare dependence be diverted to serve the second parent in a two parent household. While this may appear to be good public policy, the result is that scarce federal and state resources must be diverted from serving those with long term chronic use of welfare to the two parent households with no reduction in requirements for the single parent households and inadequate resources to serve the two parent households. Worse yet, Mr. Chairman, is that failure to do this could result in a loss of 40% or approximately \$300,000 of our current JOBS funds to effectively meet the needs of welfare dependent single parents. We have proven that we can effectively reduce these families' long term need for public support, however, with this type of unfunded federal mandates, the result will be an INCREASE in federal and state funds for Aid to Families with Dependent Children (AFDC). A final example involves the current U.S. Department of Labor policy development on Work Force Investment Policy. In this instance, the current planning calls for the Chief Local Elected Officials to be 100% responsible for the liability of the retraining needs of all dislocated workers in their

community, however, the current policy as published provides the Governor with full authority over the program. The result is the potential for local elected officials to be wholly liable for a program operated by the Governor. As a responsible County Commissioner, to be provided the potential for inadequate funds AND the possibility of no control over the activity is the worst possible unfunded federal mandate combination and there are many more such as I just explained. I suggest that the Government Operations Committee or other applicable Committees clearly examine the ramifications of this policy and those such policies like it.

Emergency Management: Everything on the Annual Statement of Work that the state requires are unfunded federal mandates. They pay 50% of the Emergency Management Coordinators salary. There is no travel expense, administrative cost, part-time clerical wages. They require the coordinator to attend EIS training sessions in Rockville, MD. They do not pay for mileage, meals or lodging. They require testing of emergency power (generators). They do not supply the generators, nor the funding for the maintenance and upkeep. We are required to maintain PEMARA base-to-mobile capability. Once again no funds to maintain. They do not pay for the clerical help, copy paper, stationery nor stamps in the mailing and production of this monthly newsletter. They require 24 hour location for EOC and ECOMM in the same location, but they have no funds available for the building or maintenance for this center. Updates on municipal plans. Updates on the Jefferson County Emergency Operation Plan. No funds given for copying costs, postage, clerical help and other misc. jobs to update these plans. Finally they require shelter systems officers. The county pays for the expenses of people who attend these meetings. They are usually county workers. The county also pays them a days pay. Once again, no funds.

Transportation: There has been three major mandates that have had a significant impact on the Area Transportation Authority and the public transit service it provides: First: Legislative enactment initiated the Commercial Drivers License (CDL) program. The federal law allowed the states the discretion of developing and designing their own program and its implementation. In Pennsylvania's case, the inclusion of public transit bus drivers has placed unnecessary burdens on the transportation authorities. The burdens include extensive training, logistic problems reaching one on only six testing areas in the Commonwealth, and the cost of the license itself. Each item either thru monetary outlay or in staff and training equates to increased financial burdens. Second: The second mandated program, although admirable in its purpose and meaning, is the Americans with Disabilities Act of 1990 (ADA). Although the intention of the Act is indisputable, it provides no source of funding or for implementing what could be the most expensive federal

legislation impacting public transportation. Capital costs have been affected dramatically in the need to make vehicles and facilities accessible. The lack of federal financial support for the implementation of this act has placed an extensive burden on the state and local governments. Third: Finally, the Omnibus Transportation Employee Testing Act of 1991, has an anticipated implementation date of January, 1994. The law was designed in an attempt to ensure the safety of the riding public, its implementation will be extremely expensive. No provisions have been made to meet the financial obligations of the programs. Once again, it is the County Commissioners problem to find alternate means of financing of unfunded federal mandates.

Mr. Chairman for time sake I have also attached testimony from two of Jefferson County's most important agencies, Jefferson County Area Agency on Aging and Jefferson County Children & Youth Services. I would hope that these documents can be put into testimony because I believe that these areas of concern, our youth and our aged are very important and their concerns need also be reviewed. Ultimately if these two agencies are deficient due to unfunded federal mandates then the counties must once again come to the rescue.

Mr. Chairman, these examples of unfunded federal mandates clearly illustrate a more pervasive impact of these unfunded mandates. As a trustee of public funds and the implementor of public policy, unfunded federal mandates serve to undermine the confidence in government necessary to implement positive change in our society. Moreover, Mr. Chairman, unfunded federal mandates will most likely increase federal outlays by requiring individuals to remain on federal entitlement programs rather than earning their way off of the need for public support funds.

Thank you for the opportunity to address this issue. I will be most happy to take any questions that you may have at this time.

Commissioner Eugene R. Inzana
Jefferson County Pennsylvania
200 Main Street
Brookville, PA 15825

Mr. TOWNS. Thank you very much for your testimony. Mr. Waybright.

**STATEMENT OF RICHARD C. WAYBRIGHT, COMMISSIONER,
ADAMS COUNTY, PA**

Mr. WAYBRIGHT. Thank you, Mr. Chairman. I want to thank you also for giving me an opportunity to address this issue that is of growing importance to Adams County. We are a rural county growing, a county located within 2 hours of Baltimore and Washington, DC, and Harrisburg, PA. Agriculture and tourism remain as the center of economic life.

We in county, township, and borough government, as well as our school districts and municipalities, are finding that either the grants do not fully compensate for the complicated administrative tasks that come with them, and in some cases, it is clear that outmoded regulations needlessly increase construction costs and significantly reduce the amount of work that can be accomplished with scarce financial resources.

One example of a work reducing regulation that our county frequently encounters is the prevailing wage requirement that applies to federally assisted construction projects in excess of \$2,000. This outrageous, low-trigger value was established by Congress in 1930. We estimate that compliance reduced the extent of actual public works construction by as much as 30 percent, and for comparatively small projects that we fund in our rural communities, the high administrative overhead needed to ensure compliance could better be used to reducing the deficit or rebuilding our aging water and sewer systems. The United States must place a higher priority on stretching its dollars in order to sustain the infrastructure needed to compete in the world marketplace.

The second example of a work reducing regulation which has greatly reduced the amount of grant assistance available to actual construction are the archaeological requirements of the Federal Historic Preservation Act. We in Gettysburg in Adams County know that our visible and highly appreciated historic resources must be protected, but the extent to which municipal governments and private landowners must go get involved with below-ground archaeological studies is simply confounding to many citizens and officials. Most do not agree that a cut should be taken out of each project to allow a professor to do a dig.

Now, these sorts of concerns are not really new. County and municipal officials have been complaining about excessive wage rates and questionable studies for years. Congress simply hasn't resolved them. As a result, infrastructure costs are unnecessarily high at the local level. This is contributing to the Nation's inability to keep pace with competitive countries.

Now, on top of these log-jam issues, we must increasingly contend with unfunded mandates of Federal and State government. While there are many examples of cost increasing unfunded requirements, the recent Federal clean drinking water legislation has caused extreme duress for several small communities in Adams County. And I would like to spend a moment describing their problems to you.

As I indicated, most of our communities are small, even tiny, yet they face big city administrative headaches. Because of density, central water is necessary. In the past, service was often provided by private water companies. With the revised standards of the Federal Clean Drinking Water Act, now requiring tests for parts per billion of an expanding list of possible pollutants, the private water providers simply cannot continue to take on the responsibility or assume the risk associated with compliance.

Recently, in Adams County, one company that has supplied lower income Aspers Village with water since early in the century simply deeded, with no compensation, the land and the whole system containing the local water supply to the local Possum Valley Sewer Authority. Thank goodness the sewer authority is willing to assume some responsibility for water supplying in this situation. Now, the sewer authority is forced to rely on Federal assistance to rehabilitate the system. Since the funds pass through the county, our administrative burden will be increasing accordingly.

The alternative here would be to place the full financial burden of rehabilitation on less than 100 property owners. Many of them are lower income. In this instance, people truly would have to leave their homes. To help the county, the county has appropriated community development funds, but the paperwork requirements and now the new standards for radon and other possible contaminants will almost certainly force construction and future operating costs to unnecessary high levels. Thus, the Federal standards will only increase the direct costs of providing water, but also there will have to be a dramatic increase in the level of involvement and technical knowledge for laymen volunteers who are taking responsibility for the system.

Please consider that only 2 to 5 percent of the water that is produced and cleaned by a typical water provider is actually used for drinking purposes. Most of the water subject to Federal human consumption compliance standards will be used for toilets, bathing, plants, lawn, and car washing, or will simply be wasted. In many cases, it might be cheaper for the municipal authority to purchase and distribute bottled water to the residents such as Aspers than it will be to comply with the clean water standards.

I certainly thank you for this opportunity to bring these to your attention.

[The prepared statement of Mr. Waybright follows:]



Office of the Adams County Commissioners

Gettysburg, PA 17325 • (717) 334-6781 • FAX (717) 334-2091

Commissioners: Thomas J. Weaver, Harry Stokes, Richard C. Waybright

Chief Clerk/County Administrator: Brenda J. Constable

Solicitor: John R. White

October 21, 1993

Commissioner Richard C. Waybright

Adams County Courthouse

Baltimore Street

Gettysburg, Pennsylvania

Congress of the United States
House of Representatives
Committee on Government Relations
Honorable Edolphus Towns, Chairman

Dear Congressman Towns:

Thank you Chairman Towns, Representative Clinger, and members of the House Government Operations Committee for giving me an opportunity to address an issue of growing importance to Adams County, Pennsylvania. We are a rural, but growing, County located within two hours of Baltimore, Maryland; Washington, D.C.; and Harrisburg, Pennsylvania. Agriculture and tourism remain at the center of economic life. Our County is not static! We are attracting many retirees. Others are moving into the County who drive to distant jobs. As a result of a growing and changing populations, demands for public services are also increasing. At the same time, our historic communities are aging at a rapid pace. Many of our towns and villages have existed for more than two hundred years, and, very often, the sewer, water, drainage, and roads and bridge systems that support these towns are in need of complete rehabilitation or even replacement. Expanding services, rehabilitating aging infrastructure, controlling costs, and keeping property taxes at affordable rates presents enormous challenges for rural areas such as Adams County. Locally, we are doing our part to address these issues, and, in many respects, the Federal and State Governments are providing valuable financial assistance through grant Programs.



Unfortunately, we in County, Township, and Borough Government, as well as our School Districts and Municipal Authorities, are finding that either the grants do not fully compensate for the complicated administrative tasks that come with them, and, in some cases, it is clear that outmoded regulations needlessly increase construction costs and significantly reduce the amount of work that can be accomplished with scarce financial resources. One example of a "work reducing" regulation that our County frequently encounters is the prevailing wage requirement that applies to Federally assisted construction projects in excess of two thousand dollars! This outrageously low "trigger value" was established by Congress in 1930! We estimate that compliance reduces the extent of actual public works construction by as much as thirty percent, and, for the comparatively small projects that we fund in our rural communities, the high administrative overhead needed to ensure compliance could better be used for reducing the Deficit or rebuilding our aging water and sewer systems. The United States must place a higher priority on "stretching its dollars" in order to sustain the infrastructure base needed to compete in a World Marketplace.

A second example of a "work reducing" regulation which has greatly reduced the amount of grant assistance available for actual construction are the "archeological requirements" of the Federal Historic Preservation Act. We in Gettysburg and Adams County know that our visible and highly appreciated historic resources must be protected, but, the extent to which municipal governments and private landowners must get involved with below the ground "archeological studies" is simply confounding to many citizen and officials. Most do not agree that a "cut" should be taken out of each project to allow a professor to do a "dig".

Now, these sorts of concerns are not really new! County and municipal officials have been complaining about excessive wage rates and questionable studies for years. Congress simply hasn't resolved them. As a result, infrastructure costs are unnecessarily high at the local level, and this is contributing to the Nation's inability to keep pace with competitive countries. Now, on top of these "logjammed issues", we must increasingly contend with "Unfunded Mandates" of Federal and State Government. While there are many examples of cost increasing, unfunded requirements, the recent Federal Clean Drinking Water Legislation has caused extreme duress for several small communities in Adams County, and I would like to spend a moment describing the problem to you.

As I indicated, most of our communities are small, even tiny, yet they face big city administrative headaches! Because of density, central water is necessary. In the past service was often privately provided.

With revised standards of the Federal Clean Drinking Water Act now requiring testing for "parts per billion" of an expanding list of possible pollutants, the private water providers simply cannot continue to take on the responsibility or assume the risk associated with compliance. Recently in Adams County, one Company that has supplied lower income Aspers Village with Water since early in the Century, simply deeded over, with no compensation, land containing the local water supply to the local Possum Valley

Sewer Authority. Thank goodness the Sewer Authority is willing to assume some responsibility for water supply in this situation!

Now the Sewer Authority is forced to rely on Federal Assistance to rehabilitate the system. Since the funds pass through the County, our administrative burden will increase accordingly. The alternative here would be to place the full financial burden of rehabilitation on less than one hundred property owners, many of whom are lower income. In this instance people truly would have to leave their homes.

To help, the County has appropriated Community Development Funds, but the paperwork requirements, and now the new standards for radon and other possible contaminants, will almost certainly force construction and future operating costs to unnecessarily high levels.

Thus, the new Federal Standards will not only increase the direct cost of providing public water, but also there will have to be a dramatic increase in the level of involvement and technical knowledge for the layman volunteers who are taking responsibility for the system.

Please consider that only two to five percent of the water that is produced and "cleaned" by a typical Water Provider is actually used for drinking purposes. Most of the water subject to Federal Human Consumption Compliance Standards, will be used for toilets, bathing, plant, lawn, and car washing, or will simply be wasted. Consequently, it might be cheaper for the Municipal Authority to purchase and distribute bottled water to the residents of Aspers, than it will be to comply with new Federal Clean Water standards.

Similarly, in Fairfield Pennsylvania, population 642, the Local Authority had to grapple with the possibility of "around the clock" inspectors to meet water standards for its old reservoir based system. Eventually Fairfield decided to pursue a Groundwater Supply, but only after several Authority members threatened to leave the non paid voluntary positions out of frustration and fear of personal liability.

Much of the growth occurring in the United States today is out in the ring of Counties outside the Metropolitan Areas. We are still, rural, and have limited financial capabilities, and even more importantly, we do not have the sophisticated institutional structures that are necessary to deal with these mandates. Congress should either provide the funds required to establish and operate effective service mechanisms or reduce the standards that are contributing to such complexity!

Mr. TOWNS. Thank you very much, Mr. Waybright, for your testimony. Let me just make certain I understood you correctly, Commissioner Kephart. You are saying that 80 percent of your budget is mandated, and at the same time I think you indicated that even with other things coming now that might be mandated, it would have to be taken out of the 20 percent that is left?

Mr. KEPHART. Unless the Federal Government sends down the money to fully fund any new mandates they send down, we will have to raise taxes. And we rely strictly on real estate taxes unless you count our \$5 per capita on 38,000 people to add into that. We would simply have to raise taxes to do any further mandates.

Mr. TOWNS. And I think when we talk about raising taxes—

Mr. KEPHART. Not federally mandated is 80 percent. Between the Federal and State government—

Mr. TOWNS. Your budget itself is mandated already—80 percent of it?

Mr. KEPHART. Our budget is 80 percent mandated.

Mr. TOWNS. So the crisis or whatever comes up must come out of the other 20 percent or raise taxes?

Mr. KEPHART. That is right.

Mr. TOWNS. And, of course, I think that Lou Inzana put it very well. I think he said that the Federal Government is now using your property tax as a credit card?

Mr. INZANA. Yes, sir.

Mr. TOWNS. I thought that was a very interesting comment, and I wish I had more of my members here to hear that. I think there is a real problem though in terms of it because when you have a job training program and all these kind of things are affected by it so I think that discussions like this and hearings are very, very important to be able to get a full picture in terms of, you know, what we might need to do to begin to address the problem. I think it points out that the legislation that is being proposed by Mr. Clinger and also Mr. Goodling is very, very important. I think that it is very timely, and my question—I guess this is to you, Mr. Schafer, that you talked about in terms of over the past few years that you have decreased the drug and alcohol budget I think by 3 percent.

Mr. SCHAFFER. Our budget has been reduced 3½ percent—right.

Mr. TOWNS. Reduced 3½ percent. With health care reform being proposed, as you understand it and the comments that have been made from whatever has been released out there, do you think this is going to help you, or will it hurt you when it comes to programs like that?

Mr. SCHAFFER. We are not at all sure at this point as to whether it is going to be a help or not. We are in favor of health benefits reform in some form but—

Mr. TOWNS. If it is positive.

Mr. SCHAFFER. Well, there is no free ride, but I think it has got to be determined where is the lead weight going to fall. Is it going to be funded from the Federal Government, from the State government, from the county government, or just exactly where is the funding going to come from to implement the health reform program, and that hasn't been defined at this point that we understand.

Mr. TOWNS. Mr. Kephart.

Mr. KEPHART. Mr. Chairman, and each State is different, but in the State of Pennsylvania, the counties do all the human services work. We don't fool with streets or water lines or sewer lines. We do human service work. If something comes down in health reform, it is going to affect our nursing homes, and it is going to affect all of the people that we service today through Children and Youth, through domestic relations, through drug and alcohol, through mental health, mental retardation, and all of the services that we now perform.

The question is exactly what Walter said. Where is the lead weight going to fall? Is the Federal Government going to fund the program that they will eventually pass? Will the State be funding the programs that they are working on passing, or will they simply pass the legislation and say, "Here, counties. Do it." And that is where the problem lies, and that is where we don't know what is going to happen to us at this time next year.

Mr. TOWNS. As you look at it, you know, the Federal Government can pass it off to the States, States can pass it off to you. You really don't have too many places to pass it to, do you?

Mr. KEPHART. We are the cook in the kitchen.

Mr. SCHAFER. One additional comment I would like to make in regard to that at least from the location of Venango County, we are only 30 miles from the Ohio State line, and we have found in our public welfare that it is a very easy situation for residents of Ohio to move over into Pennsylvania because Pennsylvania has very lax requirements. And in our office of the Department of Public Welfare, we are finding more and more non-State residents partaking of the goodies.

And depending again on this health reform, is this going to be a nationwide mandate, or is it going to be State-by-State mandate, or is it going to be a regional mandate? And this is one of the plights that those of us, at least in Pennsylvania, who border other States where we find they are playing the system—they are finding out where is it the easiest to go to to get the free ride, and unfortunately I am afraid Pennsylvania is one of the free-ride States.

Mr. TOWNS. Did you want to add something, Mr. Waybright?

Mr. WAYBRIGHT. Yes. One comment that I would like to make and all this talk about health care issues, I think somewhere along the line we are going to have to recognize the fact of individual responsibility. I mean, when we look at the total cost of the alcohol, the drug, and dah-dah-dah-dah, and we look as county commissioners at the people in our prisons—95 percent of them have an alcohol problem—a lot of our children abuse and Children and Youth services agencies are directly related to the overconsumption and use of this type of thing. And I think we have to in this country if we are going to be able to have affordable health care we are going to have to somehow address the responsibility of the individual toward their own health.

I spent 3 weeks in Holland about 4 years ago, and I was impressed with the fact that, you know, they have had health care there for many years, but if you have an alcohol problem or you have a smoking problem, you are taken care of by the State as long as you go to a clinic to address your issue. And if you don't after

a period of time address the issue, you are off their government health care program.

And I just think that we have to somehow come back to reason about some of these costs that really are—when we talk about 80 percent of our county government for human services, I think the other commissioners would probably agree totally that at least half of that could be eliminated if we could address some of these things that human beings should take as their own responsibility.

Mr. TOWNS. At this time, I yield to Congressman Clinger.

Mr. CLINGER. Thank you, again, Mr. Chairman. I think it is important to point out that this is a bipartisan panel that we have before us, two Democrats, two Republicans, but there is unanimity, I think, in terms of the views that have been represented here so this is really not a partisan issue. It really is a question—

Mr. SCHAFER. In county government, politics never enter in.

Mr. CLINGER. I understand. Of course not.

Mr. SCHAFER. Once every 4 years.

Mr. CLINGER. Once every 4 years. Right. But I think it is important to realize that this is not really a partisan issue. It is something that we have to deal with. You know, I think the point that has been made here too that by—you know, I am struck by the fact, which I really had never thought of, that we are imposing this burden on you to raise the taxes to do the things that are Federal mandates and should be handled elsewhere.

But the additional point is that there is a limit to what you can do. I mean, there are caps. There are mandatory caps on how much you can raise these taxes to without some sort of a waiver, without a change in State law to permit you to do that. My sense is that most of the counties that I deal with are pretty close to those caps now. Would that be a fair statement?

Mr. KEPHART. Yes, Bill. In the State of Pennsylvania, 25 mills is the cap for any county to charge. Our county is at 16 mills right now, but there are several counties in the State of Pennsylvania that are at their cap. They are at the wall and cannot raise any more taxes.

Mr. CLINGER. Right. So that imposes additional—it is a real concern.

Mr. WAYBRIGHT. In all fairness to that, in Adams County we have a 4½ mill. We aren't near the 25, but we have done reassessment. Some of these counties that are at their cap haven't reassessed in 25 years.

Mr. CLINGER. This may be an unfair question, but of the villains that we have before us, which is the worst—the Federal Government or the State government or can you tell? In other words, what percentage of these mandates flow from the Federal Government and what would you say would flow from the State?

Mr. WAYBRIGHT. I think I could answer from my perspective that, you know, the State mandates are all justified because the Federal is mandating that the State impose these. That is the excuse that we get. Right?

Mr. CLINGER. There is no independent State mandate? They all—

Mr. WAYBRIGHT. No, no.

Mr. CLINGER. We take the rap for everything. Right?

Mr. WAYBRIGHT. It all originates from the Federal.

Mr. CLINGER. We take the rap. OK.

Mr. KEPHART. Bill, it is really difficult. There are some cases where I as a commissioner—and I am on my second term—don't really know whether it is a Federal mandate because it is the State mandating it to us. And, you know, it could be coming from the Federal or it could be originally from the State. But between the State and the Federal Government, if you look at all of our services—and I brought a copy of this year's budget with me—just an outline by department—you will see that 80 percent of the things that are in my budget are mandated services from either the Federal or the State government, one of the two.

Mr. CLINGER. We are talking about really two different animals here it seems to me. We still have—diminishing—but we still have Federal grant programs—grant and aid programs of various sorts and in the very areas that you all are dealing with which are the human programs, and conditions are attached to those grant programs. On the other hand, you have the direct mandates; for example, Americans with Disabilities Act requirements or the motor voter requirements which are direct mandates but aren't connected with any grant. Can you give us a sense of which is the most onerous for you, or are they all of the same ilk? I am saying the conditions attached to grant programs versus the direct mandate.

Mr. INZANA. Congressman, I have found in our county, a small rural county as my colleague's, grant condition-type mandates, so to speak, are fine until about the 3rd or 4th year when then it is somewhat where the county then has to take over that particular program. The grant funding is the upfront dollars to get it in and implement it and put it into existence, but once it gets in existence, it seems to grow, and as it grows, then we are to then pick up from that point.

And if we are not prepared and ready to go with that, then you lose, and it results in the fact that, one, if you would want to try to get rid of the program, you cannot because then you have already given the entitlements to the people, and then the people already—some of those want to continue the program. And without the funding, you can't do it. And so it is very difficult to go one way or the other, either to get rid of it or not. The direct mandated circumstances, of course, hit us a little bit harder, but it does affect us in both aspects.

Mr. CLINGER. It does seem to me that there is more justification for it because of the accountability aspect here that where the Federal Government is making grants and aid that they have a responsibility really to make sure that conditions are met, less so where there is a law out there where you are mandated to carry it out but without the funds to do it with.

Mr. SCHAFER. A typical grant and aid situation that Venango County has just experienced, as well as many of the other counties in the Commonwealth, we had to build new county prisons in Venango County. We were ordered to build a new county prison for the purpose of reducing the load on the State prisons. When this initially was put through in the form of a grant and aid, it was going to be a 50 percent grant to the cost. So many of the counties, and I am not sure exactly how many, went through the process of

having the facility designed and approved by the State Department of Corrections. We are now at the point that we are going to receive 16 percent of the cost of building the prison.

Mr. CLINGER. A little different.

Mr. SCHAFER. It is quite a bit different considering the fact that we have already started, and we are going to be occupying it within the next 9 months. So we are looking for the difference somewhere between 16 percent and 50 percent of a plan that was approved by the State Department of Corrections as being necessary. That is atypical of the type of thing that we have problems with.

Mr. KEPHART. Bill, one of the problems lies in the community development block grant moneys where we, the counties, get the moneys and then distribute those to different programs throughout the county, whether it be a municipal water system or sewer system or—we have a project right now in Renovo where the youth center is trying to get reopened the swimming pool and has done the gymnasium and is trying to get shower rooms and so forth.

One of the problems is that the community development block grant money that comes down, in some cases, we don't use them for a project that really needs to be done because it costs too much money. By the time you bring in the Davis-Bacon and you have to go out to all of the bidding and do all of the paperwork that is required with those grants, it isn't worth it. It isn't worth it. It is easier to take county tax dollars and fund that project and then throw this money into a much larger project where you know you are going to have those costs anyway. The Federal Government gives on the one hand and takes away on the other.

Mr. WAYBRIGHT. In conjunction with that, I have seen time and time again in Adams County communities they have to drill a well. To meet all the standards, it turns out that it costs about 10 times what it would have if a private owner would have drilled a well to supply the same volume of water—about 10 times.

The other thing we haven't talked about this morning is somehow or another we believe or seem to have bought into the idea if we let the Federal tax us, then somehow they are good at preserving all the dollars that they collect and they are going to divvy it all back to us again. And I think that we have enough of a track record to know that some of it is lost there, and there are enough tax dollars collected. But my sense is that maybe about one-third of it gets back to—

Mr. CLINGER. To the areas, yes. My time has expired, but let me ask each of you if you would to think a little bit about this and maybe provide me with the answer. As you know, I have a bill in that would basically say, "Let us look back at the ones that are on the books and see which ones we can get rid of." I would like to have each of you consider what your No. 1 candidate of an unfunded mandate might be for the trash heap. And I don't ask you to respond to it today, but give it a little thought, and let us know. Maybe we will make that, you know, a Dave Letterman 10 reasons why we have got to get rid of this thing or 10 projects to get rid of.

Mr. TOWNS. Thank you very much. I yield to Congressman Mica.

Mr. MICA. Well, I don't think I will address a specific question—just make a quick comment. I really appreciate your testimony. I

mean, you have covered the whole spectrum from the impact on the private sector, as Mr. Schafer had testified, to the impact that you all face daily. I have only been in Congress for 10 months, and I voted against all these programs. You get a chance to vote no an awful lot. In fact, sometimes I don't think my voting card goes any other way, but it is tough. It really is tough to go back there and face people because all these bills have very nice sounding titles, and they are well intended. There is nothing that we don't want to do.

I saw the head of your association here, Pennsylvania State Association of County Commissioners—she said—and she is not here—“What would you do if one of your neighbors came to you and said, ‘I want a new car. Here is the model. You go buy it for me.’ Sound absurd?” And that is exactly what we are doing so you all have summed it up, both from the impact level of local government and also the impact on business which is also a concern for me.

So I appreciate your testimony, and, again, you need to get the message to the rest of the people. You have got two leaders in your State here who have been in the forefront of this effort, and the senators and other people who aren't here need to hear that same message so I thank you and yield back. Thank you, Mr. Chairman.

Mr. TOWNS. Thank you very much. Let me also thank all of you for your testimony because it is just so important to us to be able to hear from you. I think it was Thomas Jefferson who read a book on how to swim and jumped in the water and almost drowned, pulling his leg and kicking his foot, doing everything the book said to do. And I think that sometimes we find ourselves, you know, almost in the position that Thomas Jefferson was in, that we read about what is going on, but we are not there with the day-to-day kind of practical work and experience. And I think that makes a difference, and thank you for bringing us closer to it. I appreciate your testimony very, very much. I thank all of you.

Mr. SCHAFFER. Thank you.

Mr. TOWNS. Our next witnesses are Steven Garban, senior vice president for finance and operations, Pennsylvania State University, and Ken Mease, president of KEN-TEX Corp. Gentlemen, I would like to welcome both of you to this subcommittee. Your prepared statement—every word, every question mark, every period will be included in the record, but if you would proceed by summarizing in 5 minutes so the committee would have an opportunity to raise questions. Why don't we start with you, Mr. Mease.

STATEMENT OF KENNETH F. MEASE, PRESIDENT, KEN-TEX CORP.

Mr. MEASE. OK. First I want to thank you very much for allowing me to be here, and I am wearing two hats today, No. 1 as a member of council of a very small and rather unique—I am a member of a borough council of a very small borough and rather unique borough and also as a small businessman. I have served as a member of our local school board as well as mayor of our borough. I have been a member of council for 14 years, presently serving as council president.

My one 6-year stint on the school board was during the early 1960's in that audacious period when State government tried to reduce the number of districts to 100. Realizing the scope of State control, I did not seek reelection. I was incensed by the power grab for State control, the loss of local autonomy, and the manipulative coercion exercised by teachers unions. Since then, our educational situation, in my opinion, has only worsened and continues to deteriorate.

As mayor of a small borough, the very commonplace conflicts that occur between mayors, police departments, and borough councils throughout the Commonwealth became quite evident. The inability of elected borough officials to function on behalf of taxpayers has been critically short-circuited by State mandates. The inability of local officials to be able to protect the rights of taxpayers became much more evident since serving on borough council.

Approximately 53 percent of the properties located within the borough of Selinsgrove are tax exempt; 1 mill of tax provides about \$8,400 income to the borough. Yet despite that fact, State and Federal laws are imposed with little or no thought given to localities that do not have large tax bases. With only 5 more mills of tax available, we have estimated that the Americans with Disabilities Act alone will cost the borough in the vicinity of \$40,000.

With the everincreasing demands for higher wages and more benefits, we have reduced our five member police force to three in an attempt to hold taxes within reasonable limits. Recently, a two-block street improvement program required that prevailing wage be paid and minority subcontractors be employed. The work of the first subcontractor was so poor the new sidewalks and curbs had to be removed. The second subcontractor rarely showed up to work at all. Like the first group, the prime contractor removed them from the job. Finally, the third group finished the job satisfactorily.

But the unnecessary, overinflated costs due to the Davis-Bacon Act forced borough taxpayers to pay in excess of \$30,000 more than it would have cost if we would have been allowed to run our affairs without the bureaucratic demands of both State and Federal Governments. That additional money could have been used to repair other streets, alleys, and repair or purchase needed equipment. It could have even been applied to the conformance of the Americans with Disabilities Act. The American people would be better served if the State and Federal bureaucrats got out and stayed out of the wage and benefit setting business by repealing the Davis-Bacon Act.

Also, I understand that there is a statute in effect called the Regulatory Flexibility Act. The reason I am not certain of the name is simply because I have never heard of it being enforced, and where is the cost benefit analysis intended to protect municipalities from legislation that is potentially harmful to the financial well-being of a community? It is apparently being ignored but should be offered at least as a token protection.

Both State and Federal legislators, administrators, and bureaucrats should stop exempting themselves from their own laws, rules, and regulations. Too many people in those positions try to view the world beneath them from ivory towers. Perhaps 1 day they may learn that ivory towers make very poor vantage points. If not, it

won't be long until municipal governments, county governments, and school districts will be forced into the same financial abyss as that of both Pennsylvania and the U.S. Governments.

It will soon be 23 years since I began manufacturing. To put it mildly, it has been a hell of a struggle, but I have been extremely fortunate because I survived. I have no condos or summer homes in Florida. I own no mountain retreats. I do not play golf. I have had two vacations in 43 years. These are drab statistics that were necessitated by having to put everything back into the business to survive and grow. It will soon be time for me to go to pasture, but I find it less than comforting to know that through the highest estate taxes in the world, the avaricious appetites of both State and Federal Governments will confiscate about 60 percent of what I have built and is rightfully, legally, and constitutionally mine.

Most small business people have their lives and what fortune they have been able to accumulate tied up in their businesses. Most men will have to sell everything in order to retire, fully cognizant of the deleterious effects of capital gains taxes. These are severe penalties merely for having been successful in the creation of employment.

Unlike government employees, we have no guarantees for lifetime incomes and benefits. In today's market, to provide just the income for just one government retiree at \$30,000 a year requires an investment of approximately \$600,000 which is extracted from the marketplace denying businesses much needed capital. Government takes the money, turns it into a debt instrument, then spends it on yet another frivolous vote-getting scheme that only perpetuates the cycle of deception.

At my facility, conforming to the ADA would be needless and exorbitant. As yet, I have not been required to monitor the rain water that runs off my roof, but I know I soon will along with the additional cost of having it analyzed by an approved laboratory and the report sent to Harrisburg. These are but two examples of legislative overkill that is helping to bankrupt businesses and drive others to move their operations offshore.

Although the nature of my business is not affected by the Clean Air Act, it is the heavy hand of government that is driving up the costs of implementation. And what is more heavy handed than the Occupational Safety and Health Act? What is so sacrosanct about imposing fines and penalties that only take out the lifeblood of every business—its capital? Solutions are more readily found within the market without government intervention.

When I first started in business, the bank, not the government, the bank required that I carry insurance on the building.

Mr. TOWNS. Mr. Mease, if you would just summarize. Your entire statement will be included in the record. If you would just summarize.

Mr. MEASE. OK. I was asked by the insurance inspector if I would buy one \$40 fire extinguisher. That reduced my premium by about \$300. My point is that you don't need the government. When the OSHA man walks in there, he should walk in there with the intent of helping business people, not imposing fines and penalties. Then let him report that to the insurance companies and let the

market take care of the problem, not by imposing more fines and rules and regulations and penalties.

I feel the drug dealers and murderers, kidnappers have all kinds of rights. Apparently in today's society, businesses don't have that same kind of right. Federal estate mandates are definitely problematic, and they only represent one edge of the two-edged sword. It is the mandate, and it is also the fact that the funding is required, and the onus is always placed on business. Every tax placed on a business erroneously winds up in the marketplace as a price increase, and the consumer is always the one who pays because businesses don't pay taxes. They collect taxes.

America's problems, I think, will not be resolved by higher taxes and more bureaucracy. We must reduce the size of the scope and the depth of the governmental intervention in the marketplace. We must allow people to keep more of what they earn and let them determine what the market will be. We should repeal the Davis-Bacon Act. Only government can create welfare, but they cannot create employment. Only business can do that, and only through commercial enterprises will we be able to reduce our welfare rolls. Small business enterprises in the United States——

Mr. TOWNS. I am going to have to interrupt you.

Mr. MEASE. This is my final paragraph.

Mr. TOWNS. OK, because you have gone way over.

Mr. MEASE. I am sorry. I didn't mean to do that. Small business enterprises in the United States are the backbone of the Nation's economy; 80 percent of all new jobs are created by small, independent entrepreneurs, and they are the geese that lay the golden eggs. Government's only tools and purpose is to restrict, deny, and confiscate. The punitive, retributive, and greedy actions by our legislators that are slowly killing these geese will also ultimately destroy the golden eggs of a free society.

[The prepared statement of Mr. Mease follows:]

TESTIMONY
Before
SUBCOMMITTEE on HUMAN RESOURCES
GOVERNMENT OPERATIONS COMMITTEE
Kenneth F. Mease
Monday, October 25, 1993

I have served as a member of our local school board, as well as mayor of our borough. I have been a member of council for 14 years, presently serving as council president.

My one six year stint on the school board was during the early sixties and that audacious period when state government tried to reduce the number of districts to 100. Realizing the scope of state control, I did not seek re-election. I was incensed by the power grab for state control, the loss of local autonomy and the manipulative coercion exercised by teachers' unions. Since then, our educational situation has only worsened and continues to deteriorate.

As mayor of our small borough, the very commonplace conflicts that occur between mayors, police departments and borough councils, throughout the commonwealth, became quite evident. The inability of elected borough officials to function on behalf of taxpayers has been critically short-circuited by state mandates. The inability of local officials to be able to protect the rights of taxpayers became much more evident since serving on borough council.

Approximately 53% of the properties located within the Borough of Selinsgrove are tax exempt. One mil of tax provides about \$8,400 income for the borough. Yet, despite that fact, state and federal laws are imposed with little or no thought given to localities that do not have a large tax base. With only five more mills of tax available, we have estimated the Americans with Disabilities Act, alone, will cost the borough in the vicinity of \$40,000. With the ever increasing demands for higher wages and more benefits, we have reduced our five member police force to three, in an attempt to hold taxes within reasonable limits. Recently, a two block street improvement program required that "prevailing wages" be paid and minority subcontractors be employed. The work of the first subcontractor was so poor, the new sidewalks and curbs had to be removed. The second subcontractor rarely showed up to work, at all. Like the first group, the prime contractor removed them from the job. Finally, the third group finished the job satisfactorily. The unnecessary, over-inflated costs, due to the Davis-Bacon Act, forced borough taxpayers to pay in excess of \$30,000 more than it would have cost if we would have been allowed to run our own affairs without the bureaucratic demands of both state and federal governments. That additional money could have been used to repair other streets, alleys and repair or purchase needed equipment. It could even have been applied to the conformance of the Americans with Disabilities Act! The American people would be better served if state and federal bureaucrats got out and stayed out of the wage and benefit-setting business by repealing the Davis-Bacon Act. Also, I understand that there is a statute in effect called the "Regulatory Flexibility Act". The reason I'm not certain of the name is simply because I have never heard of it being enforced. And where is the "cost-benefit analysis" intended to protect municipalities from legislation that is potentially harmful to the financial well-being of a community? It is apparently being ignored but should be offered at

least as a token protection. Both state and federal legislators, administrators and bureaucrats should stop exempting themselves from their own laws, rules and regulations. Too many people in those positions try to view the world beneath them from ivory towers. Perhaps, one day, they may learn that ivory towers make very poor vantage points. If not, it won't be long until municipal governments, county governments and school districts will be forced into the same financial abyss as that of both Pennsylvania and the United States governments.

It will soon be twenty three years since I began manufacturing. To put it mildly, it's been a hell of a struggle. But I have been extremely fortunate. I survived! I have no condos or summer homes in Florida. I own no mountain retreats. I do not play golf. I have had two vacations in forty three years. These are drab statistics that were necessitated by having to put everything back into the business to survive and to grow. It will soon be time for me to go to pasture. But I find it less than comforting to know that through the highest estate taxes in the world, the avaricious appetites of both state and federal governments will confiscate about 60% of what I have built and is rightfully, legally and constitutionally mine. Most small business people have their lives and what fortune they have been able to accumulate, tied up in their businesses. Most will have to sell everything in order to retire, fully cognizant of the deleterious effects of capital gains taxes. These are severe penalties merely for having been successful in the creation of employment. Unlike government employees, we have no guarantees for lifetime incomes and benefits. In today's market, to provide just the income for just one government retiree at \$30,000 a year, requires an investment of approximately \$600,000, which is extracted from the marketplace, denying businesses much needed capital. Government takes the money, turns it into a debt instrument, then spends it on yet another frivolous vote getting scheme that only perpetuates the cycle of deception.

At my facility, conforming to the A.D.A. would be needless and exhorbitant. As yet, I have not been required to monitor the rainwater that runs off my roof but I know I soon will, along with the additional cost of having it analyzed by an approved laboratory and reports sent to Harrisburg. These are but two examples of legislative over-kill that is helping to bankrupt businesses and drive others to move their operations off shore. Although, the nature of my business is not affected by the Clean Air Act, it is the heavy hand of government that is driving up the costs of implementation. And what is more heavy handed than the Occupational Safety and Health Act? What is so sacrosanct about imposing fines and penalties that only take out the life blood of every business, its capital? Solutions are more readily found within the market, without government intervention. When I first started in business, the bank (not government) the bank required that I carry insurance on the building. Since the bank is the mortgagor, that's only reasonable. When an insurance inspector toured the facility, he suggested I buy another fire extinguisher. By purchasing a \$40 fire extinguisher, I saved around \$300 in premium. Since the insurance company is the one at risk, it was only reasonable. Government intervention was not necessary. That's how the market works! When the OSHA inspector calls, why not have him try to help the enterprise to find areas where improvements can be made, report them to the insurer and let the market resolve any problems that exist? But when a government agent can walk in, unannounced, without a search warrant showing probable cause, indiot, judge and write fines from a menu, the business community is unconstitutionally

victimized. Drug dealers, murderers, kidnappers, etc., apparently, have "rights" not afforded those Americans who produce jobs, provide employment and create the wealth that government squanders.

Federal and state mandates are problematic. They represent one edge of a two edged blade. Government funding, accomplished through higher taxes and another layer of bureaucracy, is the other edge of the sword. And the onus is placed on the business community. Businesses don't pay taxes, they only collect taxes. Every tax increase placed upon business will erroneously appear in the marketplace as a price increase. It is always the consumer who pays for this deception. And now comes national healthcare!

America's problems will not be resolved by higher taxes and more bureaucracy. Reduce the size, scope and depth of governmental intervention in the marketplace. Allow people to keep more of what they earn and they will determine the market and resolve the problems that government, itself, perpetrates. Repeal the Davis-Bacon Act. Government can create welfare but cannot create employment; only businesses can do that. Only through commercial enterprises will we be able to reduce the welfare rolls. And we should all bear in mind that those who cannot run the business of government should not attempt to run the government of business.

Small business enterprises in the United States are the backbone of the nation's economy. 80% of all new jobs are created by small, independent entrepreneurs. They are the geese that lay the golden eggs. Government's only tools and purpose is to restrict, deny and confiscate. The punitive, retributive and greedy actions by our legislators that are slowly killing those geese will also, ultimately, destroy the golden eggs of a free society.

Mr. TOWNS. Thank you very much.

Mr. MEASE. I apologize for taking so much time.

Mr. TOWNS. Your entire statement will be included in the record.
Mr. Garban.

**STATEMENT OF STEVEN GARBAN, SENIOR VICE PRESIDENT
FOR FINANCE AND OPERATIONS, PENNSYLVANIA STATE
UNIVERSITY**

Mr. GARBAN. Thank you, Mr. Chairman. I am Steve Garban of the Pennsylvania State University, and we have about 70,000 students. We are in 23 locations in the Commonwealth so that we do touch most of the Commonwealth. Our budget is about \$1½ billion with about 20 percent of that coming from the Federal Government or some \$300 million for our land grant activities and our variety of research programs. We are very dependent upon the Federal Government, and we are very fortunate to have had such great support.

We clearly applaud this committee today for its efforts. We would particularly—Penn State—would like to show our appreciation to Representative Towns and Representative Mica for coming to Pennsylvania. We appreciate it. Clearly Congressman Clinger and Congressman Goodling have been long-time supporters of the university and once again are showing their leadership in an effort that we think is very worthwhile.

Obviously, you have heard considerable testimony, and I am not going to repeat a lot of it. There are many mandates and programs today coming out of the Federal Government, clearly some of them necessary, and indeed when it comes to health, safety, and civil rights, essential. But that is not the argument and not the role here today.

We strongly favor that mandates need to be looked at with regard to their economic impact when it comes time to issue them. Clearly as a financial person, I would always believe and strongly urge that all mandates from any governmental body should have an appropriate cost benefit analysis. Indeed all should be responsible for their actions.

Our staff did go back and look over 10 years what our best estimate of what mandates would have cost us, and it is our estimate that it has cost us about \$50 million in the last 10 years. And these are a variety of mandates dealing with asbestos, storm water retention, water quality, sludge, air quality, drinking water, animal protection, refrigerants, hazardous wastes, family medicine, PCB's, underground storage tanks, and the like. We are very concerned about a couple coming along and in process. Of that \$50 million, we spent over \$8 million alone in asbestos removal at the Pennsylvania State University.

Some of our major concerns, the Americans with Disabilities Act—although the standards aren't clear—done our best to establish what it is going to cost us, and it is our view that it is going to cost us \$90 million over the next 5 years which is a very expensive program.

We obviously are very concerned today about health reform as all of you are here today. We have 17,000 full-time employees and another 4,000 retirees. We are spending about \$50 million on health

care today. We do employ another 30,000 part-time employees. It doesn't take much to figure out it could cost us a sizable amount. All of that we are reviewing. Anxiously we will be looking too for Wednesday and the materials that unfold.

I won't go on much more than that. We can supply you a list of the \$50 million of expenditures and give you our best estimates and some detailed narrative on the individual areas if you would like them. We would strongly favor that the unfunded Federal mandates not be continued. We have estimated that we spent \$800 a student for that \$50 million, and it is hard to tell what a student may have to pay in the future. And ultimately that is where we do turn after we can't get it or are unable to somehow or other find it with the Federal Government or the State. We would turn to the students so that it could be an additional burden to the students. We would clearly favor funding of these mandates and obviously very strongly favor economic impact reviews as you look at mandates. Thank you, Mr. Chairman.

Mr. TOWNS. Thank you too. We thank you for your testimony—both of you. I would like to now yield to Mr. Clinger.

Mr. CLINGER. Thank you, Mr. Chairman, and again I would echo the chairman's comments in thanking both of you for giving a perspective of both a public institution and the private business sector and the impact. I might say that really my interest in this whole subject was piqued by a letter I got from Dr. Thomas, president of Penn State University, who first really got me to focus on what a problem it was for a public educational institution in my district and in my State. So I really owe it to him that I have gotten involved in the issue.

I also want to say to Steve, who is retiring at the end of this year, what a marvelous asset you have been for that university, and it is going to be poorer for your absence. We owe you a great debt of thanks for the contributions you have brought to the university over the years that you have served with such distinction there.

I just appreciate the testimony. Steve, one question is—I mean, obviously the university's funding comes largely from—at least the public funding—comes largely from the State government. Do you sense that the fact that we have imposed mandates on the State governments has impacted adversely to the university? In other words, it seems to be the more money the State has to spend in complying with Federal mandates, it makes it tougher budgetarily to provide the kind of assistance that Penn State University and other State-related universities need?

Mr. GARBAN. Clearly, Congressman, I think Senator O'Pake and Senator Mowery were echoing those sentiments today that obviously the less resources available makes it very difficult as we try to portray higher education as a major priority. And particularly in our global world today, we are all fighting to get additional funding for higher education, but the other demands of these mandated programs makes it very difficult to come up with resources. And I think it clearly impacts.

Mr. CLINGER. The assistance that the university receives from the Federal Government, of course, comes largely in the form of grants for research and so forth. Are those as nettlesome as—I

mean, it would seem to me what you are saying is that the mandates that you have the most trouble with are those that come from the Federal Government in terms of telling you to comply with the Americans with Disabilities Act, comply with this law or that. How about the conditions and the requirements that you have imposed upon you as part of the grant process?

Mr. GARBAN. A lot more give and take there. A lot more interaction with the agencies in trying to see what the research they want done and how the professor or principal investigator can accommodate it. Considerably more interaction, I think, and less in the form of a rigid dictate.

Mr. CLINGER. So there is more flexibility you think in conditions on grant administration than there is in—

Mr. GARBAN. Considerably. Yes. Considerably.

Mr. CLINGER. OK. Well, again, I thank you both for being here, and I yield back.

Mr. TOWNS. Congressman Mica.

Mr. MICA. Mr. Garban, you had indicated that over X number of years it cost tens of millions of dollars. What were those statistics again on impact to the university system—\$80 million?

Mr. GARBAN. Yes, \$50 million we looked at over the last 10 years.

Mr. MICA. OK, 10 years. What was the biggest area of cost?

Mr. GARBAN. If you threw all of the human resources together, that probably would be the biggest. If you threw COBRA and all of the drug and alcohol—all of those areas. Another one would have been the asbestos that I mentioned, but they pale compared to a couple of these coming down the pike. The Disabilities Act and health reform I think will be—you know, will far exceed the total that we spent for 10 years as it appears.

Mr. MICA. I appreciate your comments on the impact particularly to higher education and the State, and this comment to Mr. Mease, I did read your whole testimony, and it is a masterpiece of providing us with a chronology of the frustrations you as a business person have experienced, and my heart aches for you for not being able to eke enough out to buy a place in Florida because we sure would like to have you. I tell you—

Mr. MEASE. I will have to sell out to do that.

Mr. MICA. Yes. I will tell you I have the good fortune of representing probably as many Pennsylvanians as native Floridians in my district. They are all down there, and they sold out when capital gains was maybe a little bit better. But let me tell you I do want to tell you how seriously I take what testimony you have given to us here. I give parts of your speech either on the floor or in committee from time to time—

Mr. MEASE. I appreciate that.

Mr. MICA [continuing]. So you are being heard. And coming from business, having some government experience, I understand your frustration. You capsulized it and enunciated it very well so hang in there, and I hope to see you in Florida, sir. Thank you. I yield back, Mr. Chairman.

Mr. GOODLING. Mr. Chairman, I would like to say that Mr. Garban is retiring before he is going to get a monstrous unfunded mandate. These colleges and universities don't understand the im-



pact direct lending will have because of budget reconciliation. Every time we don't have a way to reduce according to what the Budget Committee has told us to reduce, we will say, "Oh, well. Let the colleges and universities pick up the expense for direct lending, and then they won't be crying for us to pass that legislation. They will be crying for us to wipe it off the books."

Mr. TOWNS. Well, let me also thank both of you for your testimony. I think you have been very, very helpful, and, of course, if you don't get that house in Florida, maybe you can get the vacation at least—the fact that you haven't had one. But I also want to thank you too for your comments because I think this is a very important area and that we need as much information as we can get, and to be able to get it from the university and also from private business, I think, means a lot in terms of looking at what we are really dealing with here. So let me thank both of you again for your testimony.

At this time, the Committee on Government Operations, Subcommittee on Human Resources and Intergovernmental Relations hearing will conclude. We will actually leave the record open for 10 days so we would be able to get additional information in on health care and other information that has been requested here. So without—

Mr. CLINGER. Mr. Chairman, may I just—

Mr. TOWNS. Sure.

Mr. CLINGER. Again, I want to thank you for coming to Harrisburg and suggest that we have received very interesting and, I think, important testimony. I think in Congress we have, as we say, talked the talk about unfunded mandates. I think it becomes incumbent upon us now to walk the walk. In other words, we need to go beyond talking about the problems that we have imposed upon local and State government and really begin to grapple with it and hopefully enact some legislation that will give them some relief from this. But, again, my very heartfelt thanks to you for coming to Pennsylvania, and I hope you have enjoyed your visit in central Pennsylvania.

Mr. TOWNS. It has been informative—very informative. Thank you very much, and the committee will conclude and that the record will be left open for 10 days.

[Whereupon, at 1:30 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]



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